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LORD GLENELG'S

DESPATCHES

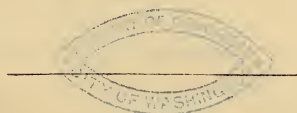
TO

SIR F. B. HEAD, BART.

DURING HIS ADMINISTRATION OF THE GOVERNMENT OF

UPPER CANADA.

ABSTRACTED FROM THE PAPERS LAID BEFORE PARLIAMENT.



LONDON;

JAMES RIDGWAY AND SONS, PICCADILLY.

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1839.

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# LORD GLENELG'S DESPATCHES

TO

SIR F. B. HEAD.

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*No. 1.—Copy of a Despatch from Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR, *Downing-street, 5th December, 1835.*

I HAVE the honour herewith to transmit to you a commission under His Majesty's sign manual appointing you lieutenant-governor of the province of Upper Canada.

You have been selected for this office at an era of more difficulty and importance than any which has hitherto occurred in the history of that part of His Majesty's dominions. The expression of confidence in your discretion and ability which the choice itself implies would only be weakened by any more formal assurance which I could convey to you.

In the following instructions I shall presuppose your knowledge of many occurrences, the correct understanding of which is essential to the discharge of the duties to which you are called, but which it is unnecessary for me to recapitulate. As, however, a more exact acquaintance with Canadian affairs is indispensable for your guidance in the administration of the government of Upper Canada, I think it right to refer you to those sources of information on which you will be able most safely to rely. Amongst these, the first place is due to the Journals of the Legislative Council and of the House of General Assembly. The appendices subjoined to the annual summary of the proceedings of the two houses contain a fund of information on almost every topic connected with the statistics and political interests of the province; and to those reports you will be able to resort with far greater confidence than to any other source



of similar intelligence. The report of the committee of the house of commons of the year 1828, with the evidence, oral and documentary, to which it refers, will also throw much light on the progress and the actual state of the questions agitated in the upper province. The correspondence of my predecessors and myself, with the officers who have successively administered the provincial government, will of course engage your careful attention.

In Upper Canada, as in all countries which enjoy the blessing of a free constitution, and of a legislature composed in part of the representatives of the people, the discussion of public grievances, whether real or supposed, has always been conducted with an earnestness and freedom of inquiry, of which, even when occasionally carried to exaggeration, no reasonable complaint can be made. The representatives of the Canadian people, if departing at times from the measured style and exact terms in which the investigation of truth may perhaps be most successfully conducted, have yet, even in the agitation of questions the most deeply affecting the interests of their constituents, exhibited a studious respect for the person and authority of their sovereign, and a zealous attachment to the principles of their balanced constitution. Until the last session of the provincial parliament, the remonstrances of the house were chiefly confined to insulated topics of complaint: discussions indeed occasionally arose, and discontent was occasionally manifested; but it may be affirmed, that generally there subsisted a spirit of amicable co-operation between the executive government and the legislature.

The cession by His Majesty of the revenues raised under the statute 14 Geo. 3. c. 88. to the appropriation of the house of assembly, was a gratuitous and unsolicited act, and was accepted by that body in a spirit of grateful cordiality.

I will not pause to recapitulate the events which immediately preceded, if they did not produce the interruption of this mutual good understanding. It is sufficient for my present object to observe that the relations which had formerly subsisted between the executive government and the representatives of the people underwent an entire change immediately after the elections which took place in the autumn of 1834. The supporters of the local government now for the first time

found themselves in a constant minority on every question controverted between them and their political antagonists. A committee of grievances was appointed, by which a report was made impugning the administration of affairs in every department of the public service, and calling for remedial measures of such magnitude and variety as, apparently, to embrace every conceivable topic of complaint. Having adopted this report, and having directed its publication in an unusual form, the house transmitted, through the lieutenant-governor, to the King, an address, in which some of the more considerable of the claims of the committee were urged in terms of no common emphasis.

It will be your first duty on the assumption of the government to convey to the house the answer which His Majesty has been advised to return to these representations.

I cannot proceed to explain the terms of that answer without the preliminary remark, with a view to which the preceding statement has been chiefly made. Whatever may be the justice of the complaints now preferred respecting the general principles on which the public affairs of the province have been conducted, the representatives of the people of Upper Canada are at least not entitled to impute to the confidential advisers of the King any disregard of their remonstrances. The greater part of the grievances detailed by the committee and the house are now for the first time brought by them under His Majesty's notice. My predecessor, the Earl of Ripon, in his despatch of the 8th of November, 1832, to Sir John Colborne, was commanded by the King to state, that "there was no class of the Canadian people, nor any individual amongst them, to whose petitions His Majesty did not require that the most exact and respectful attention should be given." His Majesty has never ceased to be actuated by the spirit which dictated those instructions, and of course will not deny to the house of general assembly that careful investigation of the grounds of their complaints, which he graciously pledged himself to bestow on the representation of any individual petitioner. I feel myself therefore entitled, on behalf of His Majesty's government, to object to any resort on the part of the house to that ulterior measure to which they allude, but which they will feel with me is to be justified only by an extreme emergency.

I now proceed to the consideration of the various topics embraced in the seventh report of the committee of grievances,

and in the addresses of the two houses to His Majesty ; and I shall advert to them in the order in which they are pursued in the report itself.

In the following pages, if any subject should appear to be passed over without due regard, you will understand that I have at least been guilty of no intentional omission, but have, in obedience to His Majesty's commands, made it my endeavour to meet every question which the committee and the house have thought it necessary or proper to raise.

1. It is stated that "the almost unlimited extent of the patronage of the crown, or rather of the colonial minister for the time being, and his advisers here, together with the abuse of that patronage, are the chief sources of colonial discontent. Such (it is added) is the patronage of the Colonial Office, that the granting or withholding of supplies is of no political importance, unless as an indication of the opinion of the country concerning the character of the government, which is conducted on a system that admits its officers to take and apply the funds of the colonists without any legislative vote whatever." The committee then proceed to an enumeration of the various public offices and the different departments and branches of the public service, over which this patronage is said to extend ; and by bringing the whole into one view they suggest what must be the amount of the authority and influence accruing to the executive government from these sources.

The statement is substantially this : that the number of public offices in the colony is too great, and that the patronage, instead of being vested, as at present, in the crown and the local representative of the crown, should be transferred to other hands.

In the long enumeration of places at the disposal of the executive government in Upper Canada, the committee have not adverted to one consideration to which I think that great prominence might justly be assigned. It is perfectly true, as it is quite inevitable, that in Upper Canada, as in other new countries, the number of public employments is and will be far larger in proportion than in older and more densely-peopled states. The general machinery of government must be the same in a scanty as in a large and redundant population ; corresponding departments of the public service, whether legislative, judicial, or administrative, must exist in both. And in a



new country, besides, there will be some establishments for which, in the settled states of Europe, no counterpart can be found ; such, for example, are all which relate to the allocation, surveying, and granting of wild lands. Nor is it to be forgotten, that in the early stages of such a society many duties devolve upon the government which at a more advanced period are undertaken by the better educated and wealthier classes as an honourable occupation of their leisure time. Thus in the Canadas, although the mere text of the law would there, as in England, authorize any man to prefer and prosecute an indictment in His Majesty's name, yet virtually and in substance the prosecution of all offences is confided to the government or its officers. These causes have inevitably tended to swell the amount of the patronage of the provincial government, without supposing any peculiar avidity on their part for the exercise of such power.

With respect to the patronage of the requisite offices, His Majesty's government are not solicitous to retain more in their own hands or in those of the governor than is necessary for the general welfare of the people and the right conduct of public affairs. I confess myself, however, unable to perceive to whom the choice amongst candidates for public employment could with equal safety be confided. It requires but little foresight or experience to discover that such patronage, if exercised in any form of popular election, or if committed to any popular body, would be liable to be employed for purposes far less defensible, and in a manner less conducive to the general good. Chosen by irresponsible patrons, the public officers would themselves be virtually exempt from responsibility ; and all the discipline, and subordination which should connect together in one unbroken chain the King and his representative in the province, down to the lowest functionary to whom any portion of the powers of the state may be confided, would be immediately broken.

I conclude, therefore, that as in such a country as Canada there must exist a number of public officers, large in proportion to the present number and wealth of the inhabitants, so the selection of them must, for the most part, be entrusted to the head of the local government.

I disclaim, however, on the part of the ministers of the crown, every wish to urge these general principles beyond their just

and necessary limits. There are cases in which I think, according to the analogy of similar cases in this country, the patronage now said to be exercised by the lieutenant-governor might with perfect safety and propriety be transferred to others. On this subject, however, it will be more convenient to state the general principle than to attempt the specific and detailed application of it at this distance from the scene of action.

That principle is, to maintain entire, by the nomination and removal of public officers, that system of subordination which should connect the head of the government with every person through whose instrumentality he is to exercise the various delegated prerogatives of the crown. What is necessary for this end must be retained ; whatever patronage is unnecessary for the maintenance of this principle should be frankly and at once abandoned.

It is noticed in the report, as an aggravation of the evils of the government patronage, that almost every public officer holds his place at the pleasure of the crown. I cannot disguise my opinion, that the public good would be little advanced if the subordinate functionaries held their places upon a more certain tenure. In practice, indeed, though subject to certain exceptions to be hereafter noticed, no public officer is in danger of losing his employment, except for misconduct or incompetency ; but there are many kinds of misconduct and incompetency which could never be made the subject of judicial investigation, but which yet would be destructive of the usefulness of a public officer, and ought therefore to be followed by a dismissal from the public service. Nor is it necessary to insist at any length on the evils which would arise in the transaction of business, if the subordinate officers were aware that they were entirely independent of the good opinion of their superiors for continuance in their employments.

It is not difficult to show, in reference to any conceivable arrangement on the subject of patronage, that there will be dangers against which it is impossible to take an absolute and perfect security. I know not, however, that any less exceptionable scheme could be devised than that which at present prevails, of giving to the head of the local government the choice of the subordinate officers, and of making their places dependent on His Majesty's pleasure. To prevent, however, as far as may be possible, the continuance of any well-founded ground of



complaint on this head, His Majesty, disclaiming for himself and for his representative in the province all desire to exercise, with the view merely to patronage, the power of appointing public officers, is pleased to prescribe for your guidance the following rules:—

First. You will, at the earliest opportunity, enter into a diligent review of the offices in the appointment of the crown and of the local government, as detailed in the report of the committee and the appendix, with a view to ascertain to what extent they may, without impairing the efficiency of the public service, be reduced immediately and prospectively. You will report to me the result of your investigation, with such particular information as will enable His Majesty's Government to decide in each case on the expediency of adopting your recommendation.

Secondly. If, during the reference of that report to me, any occasion occur for the reduction of offices, either by abolition or by consolidation, you will exercise your own discretion as to waiting for fresh instructions, or proceeding at once to the reduction. Any appointment, however, made under such circumstances will be merely provisional. In case of the immediate abolition of any office not required for the efficient discharge of the public service, you will stipulate for such a compensation to the present holders as the disappointment of their reasonable expectations may entitle them to receive.

Thirdly. In the prescribed revision of these offices you will make it one of your objects to form a judgment, what share of the patronage of the crown or the local government may safely and wisely be transferred to other hands. You will report to me on this subject, but will refrain from taking any steps regarding it without further instructions from me.

Fourthly. In the selection of persons to execute public trusts, you will be guided exclusively by the comparison of the claims which the different candidates may derive from past services or from personal qualifications.

Fifthly. In general, you will not select for any public employment in Upper Canada any person who is not either a native or a settled inhabitant of the province. To this general rule occasional exceptions may be admitted; as in cases where some peculiar art or science is demanded which no provincial candidate may be found to possess in the requisite degree. An exception must also be made in reference to those officers who

are immediately attached to your own person, in the choice of whom His Majesty does not think it right to subject you to any such restriction.

Sixthly. As often as any office shall be vacant, which is not to be suppressed, and of which the annual emolument shall exceed £200, you will make the appointment provisional only, and with the distinct intimation to the party elected, that his confirmation will depend entirely on the estimate which His Majesty may form of his pretensions ; and you will on every such occasion signify to me, for His Majesty's information, the grounds on which you have proceeded, and the motives which have directed your choice. If His Majesty should be pleased to issue, under his sign manual, a warrant authorizing you to make a grant of the office, under the public seal of the province, then, and not till then, the appointment must be considered as finally ratified. I trust that in these regulations the house of assembly will perceive a sufficient proof of His Majesty's settled purpose to exercise this branch of his prerogative for no other end than the general good of his Canadian subjects, and to prevent its being converted into an instrument of promoting any narrow, exclusive, or party designs.

2. Pursuing the order observed by the committee, I pass on to the subject of the provincial post-office. Adverting to the measures which have already been taken for the redress of the grievances which have been alleged to exist in the conduct of this department, the committee observe, that "the form of a law such as the government would approve is before the house; but its provisions (they add) are so inapplicable and absurd that no benefit could be derived from their enactment."

On the measure thus characterized, I am not called to give an opinion. It is, however, but fair to those by whom it was recommended to the adoption of the local legislature to observe, that it had previously undergone a most careful investigation by the postmaster-general. His Majesty's government cannot have the slightest wish to urge the adoption of any measure to which well-founded and sufficient objections may exist ; they are content that the bill in question should be withdrawn, to make way for any other which the assembly may be disposed to substitute for it. Perhaps, however, on approaching the question more closely the assembly may find it encumbered with unexpected difficulties. I fear that this will be the case, especially

in reference to the intercourse by post, with all places beyond the limits of the province itself. You will, however, assent to any judicious and practicable scheme which the house may incorporate in any bill tendered for your acceptance; regarding as of no weight whatever, when opposed to the general convenience of the public, any considerations of patronage, or of revenue derivable from this source.

3. Under the head of salaries and fees, the committee have entered into very copious statements to show that the emoluments of the public officers in Upper Canada are excessive, and out of all just proportion to the value of the services rendered. It is unnecessary for me to enter into these details, because, as to the general principles on which it will be your duty to act on questions of this nature, there can be no room for controversy. Indeed, those principles will, I think, be most conveniently considered, when divested of topics connected with the interests and the services of particular persons.

There is no measure of retrenchment compatible with the just claims of His Majesty's various officers, and with the efficient discharge of the public service and duty, to which the king is not disposed to give a prompt and cheerful assent. To determine what ought to be the scale of remuneration to public functionaries of different classes, would require information too minute and exact to be obtained beyond the limits of the province itself. This would appear a very fit subject for a special inquiry, in which it might be proper to employ commissioners to be appointed under the authority of an act of the assembly. I have reason to suppose that the subject has never yet undergone a full and fair investigation; and therefore I do not feel myself entitled to assume the non-existence of those abuses which so readily grow up under a system which is not subjected to a careful scrutiny, conducted upon permanent and enlightened views of public economy. Even if the result of the examination should be only to show that there is no evil of this nature to be remedied, the labour would be amply repaid, by placing so important a fact beyond the reach of all reasonable suspicion.

In dealing with existing interests, the local legislature will, I doubt not, be well disposed to adopt the rules which have been uniformly taken by parliament for the guidance of their discretion in similar cases. The saving of public money which could arise from the unexpected reduction of official incomes,



would not only subject numerous families to extreme distress, but by impairing general confidence in the public credit, would weaken the foundations on which all proprietary rights must ultimately repose.

The King confidently relies on his faithful subjects of Upper Canada, that they will not reduce His Majesty to the distressing alternative of either abandoning the just interests of any of his servants, or opposing himself to measures having for their object the reduction of public expenditure.

4. Next in the order of complaints is that which relates to the amount of the pension list. On this, as on the subject which I have last noticed, I conceive that I shall better discharge my duty by attempting to provide against any future abuse than by engaging in a minute retrospect of any which may have already occurred. I will not even pause on the comparison, not perhaps very accurately or necessarily instituted, between the conduct of the central government of the United States of America, and that which has been pursued in one of the provinces of the British empire, respecting the remuneration of officers for past services. Such pensions as have already been charged upon the revenues, which were at the disposal of the crown, constitute a debt to the payment of which His Majesty's honour is pledged; nor need I state that there is no consideration so powerful as to induce the King to assent to the violation of any engagement lawfully and advisedly entered into by himself, or by any of his royal predecessors.

On the other hand His Majesty is content, that the most effectual security should be taken against any improvident increase of the pension list by any future grants, and is willing that a limit should be fixed by law to any charge which may hereafter be imposed upon the provincial revenues on this account.

I do not anticipate that the assembly of Upper Canada would wish to withhold from the King, the means of rewarding faithful and zealous public services, or would think it desirable that no provision shall ever be made by His Majesty, to solace the declining years of those who have consumed, in laborious public duties in the colony, the larger portion of their lives.

You will therefore assent to any law which may be tendered for your acceptance, of which the object shall be to regulate, on a just and reasonable scale, the amount of the future pension

list of Upper Canada, and to prescribe the principles upon which any pensions shall be granted.

5. I proceed to the subject of the provision made for ecclesiastical establishments, and for the maintenance of the teachers of religion of various denominations.

On this head the house of assembly maintain opinions from which, in their address to His Majesty of the 13th April, the legislative council have recorded their most entire and earnest dissent. The report states, that "the house of assembly, in several successive parliaments, has expressed its entire disapprobation of the conduct of the government in attempting to uphold particular religious sects by money grants, and in the 10th and 11th parliaments has declared, that it recognizes no particular denomination as established in Upper Canada, with exclusive claims, powers, or privileges."

It appears that the four religious communities, whose funds are aided by grants from the hereditary and territorial revenue, are those of the churches of England, and Scotland, and Rome, and of the Wesleyan Methodist Society; the last being in two divisions, which respectively take the distinct appellation of the "Canadian" and the "British."

In the last session of the provincial parliament, a bill was passed by the assembly, the object of which was to enable certain commissioners to sell the lands, which, under the Constitutional Act of 1791, had been appropriated in Upper Canada to the maintenance of a Protestant clergy, and to pay over the proceeds to the receiver-general, to be disposed of, under the future direction of the legislature, for the promotion of education, and for no other purpose whatever.

This bill was rejected by the legislative council, on the grounds noticed in the address from that body to His Majesty, and in a report from a select committee, appointed by them to take the bill into consideration, which report is enclosed in Sir John Colborne's despatch of the 20th May, No. 20.

Your predecessor and the council agree in the opinion, that it is vain to expect the concurrence of the two branches of the local legislature in any adjustment of this question, and they therefore invoke the interposition of parliament; which interposition the assembly, on the other hand, deprecate with equal earnestness.

The chief practical question then, which at present demands



consideration, is, whether His Majesty should be advised to recommend to parliament the assumption to itself of the office of deciding on the future appropriation of these lands. There are two distinct reasons, both of which appear to me conclusively to forbid that course of proceeding.

First. Parliamentary legislation on any subject of exclusively internal concern, in any British colony possessing a representative assembly, is, as a general rule, unconstitutional. It is a right of which the exercise is reserved for extreme cases, in which necessity at once creates and justifies the exception.

But important as is the question of the clergy reserves in Upper Canada, yet I cannot find in the actual state of the question any such exigency as would vindicate the imperial legislature in transferring to themselves the settlement of this controversy. The conflict of opinion between the two houses upon this subject, much as it is to be lamented, yet involves no urgent danger to the peace of society, and presents no insuperable impediment to the ordinary administration of public affairs. Although a great evil, it is not such as to exclude every hope of mitigation by the natural progress of discussion, and by the influence of that spirit which, in public affairs, not seldom suggests to parties alike solicitous for the general good some mutual surrender of extreme views, and some compromise on either side of differences which at first sight might have appeared irreconcilable. Until every prospect of adjusting this dispute within the province itself shall have been distinctly exhausted, the time for the interposition of parliament will not have arrived, unless indeed both houses shall concur in soliciting that interposition; in which event there would of course be an end to the constitutional objections already noticed.

The second ground on which I think myself bound to abstain from advising His Majesty from referring this question immediately to parliament is, that the authors of the constitutional act have declared this to be one of those subjects in regard to which the initiative is expressly reserved and recognized as falling within the peculiar province and the special cognizance of the local legislature, although its ultimate completion is no less distinctly made to depend, in addition to the ordinary submission to His Majesty, on the acquiescence of the Imperial parliament.

It is not difficult to perceive the reasons which induced par-

liament in 1791 to connect with a reservation of land for ecclesiastical purposes the special delegation to the council and assembly of the right to vary that provision by any bill which, being reserved for the signification of His Majesty's pleasure, should be communicated to both houses of parliament for six weeks before that decision was pronounced. Remembering, it should seem, how fertile a source of controversy ecclesiastical endowments had supplied throughout a large part of the christian world, and how impossible it was to foretell with precision what might be the prevailing opinions and feelings of the Canadians on this subject at a future period, parliament at once secured the means of making a systematic provision for a protestant clergy, and took full precaution against the eventual inaptitude of that system to the more advanced stages of a society then in its infant state, and of which no human foresight could divine the more mature and settled judgment.

In the controversy, therefore, respecting ecclesiastical endowments, which at present divides the Canadian legislature, I find no unexpected element of agitation, the discovery of which demands a departure from the fixed principles of the constitution, but merely the fulfilment of the anticipations of parliament in 1791, in the exhibition of that conflict of opinion for which the statute of that year may be said to have made a deliberate preparation. In referring the subject to the future Canadian legislature, the authors of the constitutional act must be supposed to have contemplated the crisis at which we have now arrived, the era of warm and protracted debate, which in a free government may be said to be a necessary precursor to the settlement of any great principle of national policy. We must not have recourse to an extreme remedy merely to avoid the embarrassment, which is the present though temporary result of our own deliberate legislation.

I think, therefore, that to withdraw from the Canadian to the Imperial legislature the question respecting the clergy reserves would be an infringement of that cardinal principle of colonial government which forbids parliamentary interference, except in submission to an evident and well-established necessity.

Without expressing any further opinion at present on the general objects of the bill of last session, I think the effect of that bill would, as it appears, have been to constitute the assembly not merely the arbiters respecting the disposal of the funds to

be raised by the sale of these lands, but the active and independent agents in effecting those sales, and thus to invest them with the appropriate functions of the executive government.

6. The report of the committee next passes to the subject of the land granting department.

Admitting that Lord Ripon's despatch shows that the grievances under this head have been in part removed, it is observed that the extent of that relief is not very clearly shown by the documents before the committee.

It is difficult, or rather impossible, for me to advance further in meeting the views of the assembly thus briefly expressed, than by stating, that if any ambiguity can be pointed out in Lord Ripon's instructions respecting the grant of lands it shall be immediately removed, and that if His Majesty's officers in the province can be shown to have disregarded those instructions, it will be your duty to enforce the most prompt and exact obedience to them to the full extent of their spirit and intention, insomuch that there shall in future be no doubt whether the grievances at which they aimed have or have not been completely removed.

7. Respecting the collegiate institutions of the province, the assembly express their opinion that the Upper Canada College "is upheld at great public expense, with high salaries to its principal masters; but that the province in general derives very little advantage from it, and that it might be dispensed with."

His Majesty's government can have no wish to retain any charge for this establishment which may be more than adequate to provide for the effective performance of the duties of the teachers. Any wise retrenchment of that nature may, subject to the principles already mentioned, be immediately introduced. That the province derives little benefit from this college is a fact of which the explanation is to be found, not in the principle of the institution itself, but in some error of management, susceptible, as it should seem, of an easy remedy. It is impossible to believe that in Upper Canada, as in other countries, advantages the most important would not result from a well ordered school for the education in the elementary branches of philosophy, science, and literature, of young men who aspire to fill the highest offices in society. Nor can I suppose it a light benefit thus to connect together the preparatory and the final studies of youth in one systematic plan, which, by rendering



the initiatory school a careful preparation for the university, may give to their entire education a character of solidity and consistency scarcely attainable by any other method.

I shall therefore deeply lament the abolition of a college of which the defects would appear so remediable, and of which it does not seem easy to exaggerate the benefits.

On the subject of King's College an unfortunate difference of opinion exists between the council and the assembly, which each of those bodies concurs in pronouncing incurable.

His Majesty commands me to tender, through you, his mediation on this subject. With the previous assent of both houses, the King will cheerfully resume the consideration of the question, in what manner a charter could be most conveniently prepared so as to promote the interests of science and literature, and the study of theology and moral philosophy, with a due regard to the opinions which seem to prevail in the province respecting the proper constitution and objects of an university. But after having distinctly referred to the local legislature the duty of giving effect to their own wishes on the subject, in the form of an act of general assembly, His Majesty cannot, at the instance of one only of the two houses, withdraw it from their cognizance.

8. The committee complain that a very considerable proportion of the sum, amounting to 31,728*l.* 18*s.* 11*d.* expended in aid of emigration from Europe, was for "articles or services not specified, and concerning which a committee of the house of assembly could know nothing, unless they were to send for the detailed accounts and vouchers, which, if they had, it would be impossible to examine at the late period of the session at which the government sent down those statements." In the appendices to the reports, numbered 56 and 57, various items of this expenditure are noticed with apparent dissatisfaction. You will direct the public officers who have had the management of this fund to communicate to the house of assembly, with the utmost possible promptitude, the most minute and circumstantial details and explanations connected with it for which the house may be pleased to call.

9. Next in order occurs the statement, that "the present system of auditing the public accounts is altogether insufficient for ensuring the application of the revenue to the purposes for which it is intended to be applied."

The remedy suggested is that of establishing a board of audit, of which the proceedings should be regulated by a well-considered statute under a responsible government.

Deferring at present any remark on the expression "responsible government," to which I shall more conveniently advert hereafter, I must express my agreement in the position that the establishment of a board of audit by law is the best remedy in this case. His Majesty will gladly concur in the enactment of any law which shall be properly framed for constituting such a board. With a view to aid the deliberations of the legislature, I transmit to you various documents explanatory of the constitution and proceedings of the commission for auditing the public accounts of this kingdom.

The assembly express their disbelief that any efficient measure of this kind will obtain the consent of the legislative council. I trust that this apprehension will be dispelled by the event. If unfortunately it should be confirmed, you will, in the exercise of His Majesty's delegated authority, proceed at once to constitute a board of audit, upon the principles of that which at present exists in this kingdom, so far as the two cases may be analogous; and although I am aware that, unaided by positive legislation, such a board would be comparatively inefficient, yet no inconsiderable advance would be thus made towards the introduction of an effective system of audit.

If you should find it necessary to act on this instruction, great care must be used to prevent the new establishment from being converted into the means of any real or seeming abuse, in the way of an improvident increase of the patronage of the crown. Of a board consisting of five or three auditors, one alone should at first receive a salary, because the institution itself would be provisional only, and liable to revision so soon as a proper act could be passed for the purpose. I think it highly probable that amongst the gentlemen of the province most conversant with its financial interests, a sufficient number would be found, who as honorary and unpaid commissioners, would complete the board, and who, though not engaging in the mere ordinary routine of business, would exercise a general superintendence over the more important proceedings of the commission. Especially it would be requisite to obtain such aid in determining the number and remuneration of the clerks and other subordinate officers. But it must not be forgotten,



that the effective remedy, as the report observes, is to be found in a board established by law; and I earnestly hope that a law to that effect may pass both houses of the legislature.

10. The withholding of public accounts from the house of assembly is the next head of complaint.

It is proposed, that to remedy this evil, a statute should be passed, providing the time and manner of making such returns, and naming the officers who should render them to the legislature; "but," add the committee, "it is well known that such an enactment would fail in the council, which has an interest in preventing the enforcement of practical accountability to the people."

Although I cannot permit myself to believe that the council would really oppose themselves to any judicious measure of this kind, I fear that such legislation would be found to involve many serious if not insuperable difficulties. I must object to the appointment of individuals for any purpose of this kind by name in a statute, or by any authority other than that of the King. Persons so appointed would exercise a control over all the functions of the executive government, and would have a right of inspecting the records of all public offices to such an extent as would leave His Majesty's representative, and all other public functionaries, little more than a dependent and subordinate authority. Further, such officers would be virtually irresponsible and independent.

On this subject, however, His Majesty commands me to state, that there is no information connected with the receipt and expenditure of any part of the revenue of Upper Canada which he wishes to withhold from the representatives of the Canadian people. You will, immediately on your arrival in the province, apprise the heads of every public department by which any such funds are received or administered, that they must constantly keep in preparation, to be produced to the assembly, in compliance with any addresses which may be presented to you by that house, copies and abstracts of all public accounts; and you will consider in what form these can be drawn up, so as to exhibit all material information in the most complete and luminous manner. It will perhaps be possible to concert with the house before-hand some system for preparing such returns; and as often as they may present to you addresses for such information you will promptly accede to their wishes, except in

the extreme case, which it is difficult to suppose, of any demand of that nature being made in such a form that the compliance with it would endanger some great public interest.

11. The report then passes to the consideration of cases in which your predecessor is charged with having failed to show respect, even in subordinate matters, to the wishes of the house of assembly.

I will not encumber this communication by entering into a review of the particular transactions noticed by the committee in illustration of this complaint; I am not, indeed, sufficiently in possession of the facts, to enable me to do so; nor do I think it convenient to combine a personal discussion with a general statement of the principles by which your conduct is to be governed.

The only general direction that I have to give you on this subject is, that you will always receive the addresses of the assembly with the most studious attention and courtesy. As far as may be consistent with your duty to the King, you will accede to their wishes cheerfully and frankly. Should that duty ever compel you to differ from their opinion, or to decline compliance with their desires, you will explain in the most direct, and of course in the most conciliatory, terms the grounds of your conduct.

12. The next topic of complaint is, that many of the recommendations contained in Lord Ripon's despatch of the 8th November, 1832, have not been carried into effect. Amongst these are especially mentioned such as relate to the amendment of the election laws, the non-interference of His Majesty's officers at elections, the disclosure to the house of the receipt and expenditure of the crown revenue, the exclusion of ministers of religion from the legislative and executive councils, the reducing the costs of elections, the judicial independence, and the limitation of the number of public officers who may sit in the assembly.

Adhering, without reserve or qualification, to all the instructions issued under His Majesty's commands by Lord Ripon, the King is pleased to direct that you do adopt that despatch as a rule for the guidance of your own conduct, and that you exert your legitimate authority and influence to the utmost possible extent to carry into effect all such of his Lordship's suggestions as may still continue unfulfilled.

13. The selection of justices of the peace is said to "have

been made chiefly from persons of a peculiar bias in politics, and to be the means of extending the power and influence of the colonial system." It is not in my power to verify the accuracy of this opinion; and I am happy to feel myself relieved from the necessity of such an investigation. If any such abuse exists it cannot be too promptly or decisively remedied. Whenever any increase of the number may appear to you desirable you will propose to any gentleman in Upper Canada possessing the necessary qualifications of knowledge, property and character and unquestionable fidelity to the Sovereign, the assumption of the office of a justice of the peace, without reference to any political considerations.

14. A very considerable part of the report is devoted to the statement and illustration of the fact, that the executive government of Upper Canada is virtually irresponsible; and the conclusion drawn from this statement is, that under the present system there can be no prospect of a good and faithful administration of public affairs.

Without entering, on the one hand, unnecessarily into a discussion of those general principles to which my attention is thus invited, or digressing, on the other hand, into personal topics, it is enough for me to observe on the present occasion, that experience would seem to prove that the administration of public affairs in Canada is by no means exempt from the control of a practical responsibility. To His Majesty and to parliament the governor of Upper Canada is at all times most fully responsible for his official acts. That this responsibility is not merely nominal, but that His Majesty feels the most lively interest in the welfare of his Canadian subjects, and is ever anxious to devote a patient and laborious attention to any representations which they may address to him, either through their representatives or as individuals, is proved not only by the whole tenor of the correspondence of my predecessors in this office, but by the despatch which I am now addressing to you. That the imperial parliament is not disposed to receive with inattention the representations of their Canadian fellow subjects is attested by the labours of the committees which have been appointed by the house of commons during the last few years to inquire into matters relating to those provinces.

It is the duty of the lieutenant-governor of Upper Canada



to vindicate to the King and to parliament every act of his administration. In the event of any representations being addressed to His Majesty upon the subject of your official conduct, you will have the highest possible claim to a favourable construction; but the presumptions which may reasonably be formed in your behalf will never supersede a close examination how far they coincide with the real facts of each particular case which may be brought under discussion.

This responsibility to His Majesty and to parliament is second to none which can be imposed on a public man, and it is one which it is in the power of the house of assembly at any time, by address or petition, to bring into active operation.

I further unreservedly acknowledge that the principle of effective responsibility should pervade every department of your government; and for this reason, if for no other, I should hold that every public officer should depend on His Majesty's pleasure for the tenure of his office. If the head of any department should place himself in decided opposition to your policy, whether that opposition be avowed or latent, it will be his duty to resign his office into your hands, because the system of government cannot proceed with safety on any other principle than that of the cordial co-operation of its various members in the same general plans of promoting the public good. The inferior members of the different offices should consider neutrality on this great litigated question of provincial policy as at once their duty and their privilege. Diligently obeying all the lawful commands of their superiors, they will be exempted from censure if the course which they have been directed to pursue should issue in any unfortunate results.

Some of the members of the local government will also occasionally be representatives of the people in the assembly, or will hold seats in the legislative council. As members of the local legislature they will of course act with fidelity to the public, advocating and supporting no measures, which, upon a large view of the general interest, they shall not think it incumbent on them to advance. But if any such person shall find himself compelled by his sense of duty to counteract the policy pursued by you as head of the government, it must be distinctly understood that the immediate resignation of his office is expected of him, and that, failing such a resignation, he must, as a general rule, be suspended from it. Unless this course be

pursued, it would be impossible to rescue the head of the government from the imputation of insincerity, or to conduct the administration of public affairs with the necessary firmness and decision.

I need hardly say, that in the event of any public officer being urged into a resignation of his place by his inability to give a conscientious support to his official superior, the merits of the question would undergo an investigation of more than common exactness by His Majesty's ministers, and that His Majesty's decision would be pronounced with a perfect impartiality towards those who had the honour to serve him in the province, however high or however subordinate might be their respective stations.

By a stedfast adherence to these rules, I trust that an effective system of responsibility would be established throughout the whole body of public officers in Upper Canada, from the highest to the lowest, without the introduction of any new and hazardous schemes, and without recourse to any system of which the prudence and safety have not been sufficiently ascertained by a long course of practical experience.

15. I next advert to two subjects of far more importance than any of those to which I have hitherto adverted. I refer to the demand, made partly in the report of the committee, and partly in the address from the assembly to His Majesty, for changes in the mode of appointing legislative councillors, and for the control by the assembly of the territorial and casual revenues of the crown.

On these subjects I am, to a considerable extent, relieved from the necessity of any particular investigation, because claims precisely identical have been preferred by the assembly of Lower Canada; and because, in the instructions to the commissioners of inquiry who have visited that province, I have already had occasion to state the views which have received His Majesty's deliberate sanction. The principles of government in the two sister provinces must, I am well aware, be in every material respect the same; I shall therefore annex for your information, as an appendix to this despatch, so much of the instructions to the Earl of Gosford and his colleagues, as applies to these topics.

In the prosecution of the inquiries of the commissioners in Lower Canada, they will be instructed to enter into full and unreserved communication with you upon these questions, and



to frame their report in such a manner as may enable His Majesty to adopt a just and final conclusion upon the course to be pursued respecting them in both the Canadas. For this purpose, you will supply the commissioners with all the information which you may think necessary for them to receive, and with every suggestion which you may think it expedient to make for their assistance in comparing the state of these questions in the two provinces. If it should ultimately appear desirable, the commission may perhaps be directed to resort to Upper Canada, there to pursue, in concurrence with yourself, a more exact inquiry into these subjects than they could institute at Quebec, in reference to the affairs of the upper province.

In general, the Earl of Gosford and his colleagues will be directed to enter into unreserved communication with you, not only on the points just mentioned, but on every subject of common interest to the two provinces. You, on your part, will conduct yourself towards them in the most cordial spirit of frankness and co-operation.

I have thus, in order, adverted to every subject to which the assembly of Upper Canada have called the attention of His Majesty's government. You will communicate to the legislative council, and to that house, the substance of this despatch, as containing the answer which His Majesty is pleased to make to the addresses and representations which I have had the honour to lay before him from the two houses in their last session. I trust that in this answer they will find sufficient evidence of the earnest desire by which His Majesty's councils are animated to provide for the redress of every grievance by which any class of His Majesty's Canadian subjects are affected.

I close this communication with the expression of my earnest hope, and I trust not too confident belief, that the representatives of the people of Upper Canada will receive with gratitude and cordiality this renewed proof of His Majesty's paternal solicitude for the welfare of his loyal subjects in that province; and that, laying aside all groundless distrusting, they will cheerfully co-operate with the King, and with you, as His Majesty's representative, in advancing the prosperity of that interesting and valuable portion of the British empire.

I have, &c.

(Signed)

GLENELG.

*No. 2.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR, *Downing-street, 30th December, 1835.*

I HAVE the honour to transmit to you herewith the copies of a correspondence which has passed with the secretary at war on the subject of allowing to you, as lieutenant-governor of Upper Canada, the services of a military aide-de-camp, borne on the establishment of this country; and you will observe, that under the peculiar circumstances of your appointment the secretary at war as consented, for the present, at least, to apply to the lords commissioners of the treasury, for permission to issue pay to the officer who may be selected by you to act as your aide-de-camp.

I have, &c.

(Signed) GLENELG.

*No. 3.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR, *Downing-street, 2nd February, 1836.*

WITH reference to my despatch of the 30th December, I have the honour to inform you, that the lords commissioners of the treasury have signified to me their assent to the arrangement proposed to them by the secretary at war for providing for the pay of your aide-de-camp, in the votes for staff services comprised in the army estimates; and their lordships have also directed the commissary on the station to issue to that officer the allowances usually granted to military aides-de-camp.

I beg, however, to remind you, that this arrangement is to be considered as merely of a provisional nature, to be discontinued whenever it may become possible to provide for the pay and allowances of your aide-de-camp out of provincial funds.

I have, &c.

(Signed) GLENELG.

*No. 4.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR, *Downing-street, 22nd March, 1836.*

I HAVE received your despatches, dated the 5th and the 15th of February, Nos. 3 and 5, containing copies of the communications, which had passed between yourself and the legislative council and assembly of Upper Canada.

Before I pass to the particular subjects to which you have thus called my attention, I would avail myself of this commencement of our official correspondence as a fit opportunity,

for explaining the spirit in which I am anxious that it should be conducted. It is impossible that I should place implicit confidence in my own conclusions respecting passing events in Upper Canada as they are successively reported to me. Although I do not regard a personal observation of such occurrences essential to a correct understanding of their character and tendency, yet at this distance from the scene it is often unavoidable that my judgment on such matters should for a considerable time be suspended; during any such interval I anticipate great relief and support from the reliance which I am happily entitled to repose in your discretion. I shall however offer for your solution any doubts which may suggest themselves to me with perfect unreserve, and without yielding to the fear that you will ever misconstrue such inquiries into an expression of distrust, or of unavowed disapprobation. In the pursuit of the great object which we have in common, you will, I am sure, agree with me, that our official intercourse should be characterized both by an entire frankness and by mutual confidence, and that on either side the most indulgent and favourable construction should be given to every expression which may be susceptible of more than one meaning.

Reverting now to the subject of the despatches to which I have referred, the first remark which occurs to me relates to the manner in which you made your inaugural address to the two houses of provincial legislature. It appears to have been delivered by you in person in the council chamber, although the session was still in progress. I presume that you considered this peculiarity in the mode of communicating with the legislature as required and justified by the novelty of the occasion. I should entirely concur in that opinion, if I were assured that neither of the houses would complain of having been thus summoned into the governor's presence, as a breach of their privileges. I trust that no such objection has been raised, or that if insisted on by any one, it will have been overruled by the good sense and right feeling of the legislative bodies.

Your address to the council and assembly was judicious and well considered.

In proceeding to communicate a complete transcript of your instructions, instead of the substance of them, you exercised a discretion which I do not venture to disapprove. It is impossible to prescribe for the guidance of an officer placed in such a



situation as yours rules of conduct on questions of this kind, so inflexible as not to yield to circumstances which could not be foreseen, or to the pressure of considerations which at this distance could not be appreciated.

The motives which prompted you to avow in the most public manner, that in thus divulging the precise terms of your instructions you were acting in opposition to His Majesty's orders, command my respect, even though I am not quite satisfied of their sufficiency. Though less consonant with the frank and open bearing of your own character, it might have been more judicious to avoid the direct avowal of the fact that you were disregarding an express injunction of the King. In your solicitude to take upon yourself the responsibility which you have thought it right to incur, you may perhaps have, however unintentionally, contributed a little to impair the respect due to the royal authority.

I do not disguise from you my fears that the publication of that part of the instructions to the commissioners in Lower Canada, which was subjoined to your own may have involved the Earl of Gosford in much embarrassment. I am not without an apprehension, that the effect of your having adopted a course, different from that which Lord Gosford had previously taken, may have been to create a feeling of dissatisfaction on the part of the legislature of Lower Canada, which may seriously impede the successful progress of his mission. As it was in your power to have communicated, on his lordship's responsibility, the statement which he had himself conveyed to the legislature of the lower province, of the effect of those passages of the commissioners' instructions which were appended to your own, I do not perceive why you could not have accompanied a literal transcript of the body of your instructions with the epitome which Lord Gosford had already prepared and used of the appendix to them.

The address of the house of assembly of the 5th of February placed you in a position of delicacy, from which you extricated yourself with skill, calmness, and discretion.

I have thus addressed you in that spirit of frankness and unreserve to which I referred in the commencement of this despatch. The respectful expression of such differences of judgment as may arise between us may, I am convinced, be made without hazarding on either side the loss or the diminution of that mutual confidence with which it is our duty to co-operate,



for the advancement of the King's service and the general welfare of His Majesty's subjects.

I desire to express my approbation of the spirit and manner in which you conduct your official intercourse with the house of assembly,—temperate, judicious, and self-possessed; meeting their wishes cordially whenever you are able, and when you think yourself precluded from so doing, announcing to them frankly and courteously, your opinion and determination.

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*No. 5.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 22nd March, 1836.*

I HAVE received your despatch dated the 5th of February, No. 4., on the subject of the domestic and pecuniary difficulties by which you are encountered in the administration of the government of Upper Canada.

I admit, without reserve, that when I had the honour to signify to you His Majesty's pleasure that this high trust should be offered to your acceptance, no political connection or personal acquaintance subsisted between us. You were known to me only by your general reputation, and by the reports of those who had enjoyed the opportunity of estimating your qualifications for the conduct of public affairs. Having met on these terms, I further acknowledge, that in our conversations before you quitted England you urgently and repeatedly communicated to me your apprehension, that in succeeding an officer of military rank so much above your own, and in appearing as lieutenant-governor of the province, denuded of many of those indications of authority which he had borne, you would labour under grave disadvantages. Whether you also insisted, on the probable inadequacy of your official income to your inevitable expenditure, my memory is not equally clear; but I attach greater weight to your recollections than my own of what then passed between us, and am willing to consider the subject now, on the assumption that before your departure from England this difficulty was distinctly foreseen and intimated by you.

The question respecting a permanent aide-de-camp has, I am happy to say, been adjusted according to your wishes and recommendation; a provision for that charge has been introduced into the annual estimate, and has been sanctioned by the house of commons.

The necessity of supplying the deficiency in your military

rank by some accession to your civil honours, was brought under the consideration of the King on the eve of your departure for America, when His Majesty was graciously pleased to promote you in the Guelphic order. I would cheerfully refer to your own more mature judgment the question, whether under such circumstances, I could with propriety submit to the King my advice to transmit to you a patent for a still higher dignity. The value (because the significancy) of such honours depends chiefly on the occasion on which they are bestowed, and the motives which may appear to have suggested the grant. Having proceeded to Upper Canada with one recent mark of His Majesty's favour, if you should receive a second within a few weeks from your assumption of the government, so precipitate an eagerness to confer rewards, at the very commencement of your service, must either appear unaccountable, or if the fact that you had been raised to the rank of a baronet on the receipt of your first despatches from Upper Canada, in consequence of your having discovered and reported that this dignity was necessary for the support of your influence there, were publicly avowed, the object itself would be defeated by such an avowal.

Further, it is not at all evident that the object which you have in view would be secured or even promoted by your accession to the rank of a baronet. The difficulty with which you have to contend is, that although governor of the province, and therefore, elevated above every other person there in civil rank, you are yet, in your military position, several degrees below many of those with whom you are constantly brought into official or personal intercourse. Now this difficulty, whatever be its force, would be unimpaired, even if your promotion to the baronetage should take place.

For these reasons I have not been able to submit your name to the King as an eligible candidate for the dignity of a baronet, at the present time; yet, cautiously guarding myself against being supposed to enter into any pledge, direct or indirect, on the subject, I readily admit, that it is a reward to which any man who should successfully accomplish the objects of your appointment in Upper Canada might properly aspire.

On the subject of your official income you reason upon principles to the truth of which I willingly subscribe. I admit that your annual receipt ought at the very least to cover your annual expenditure, and that the public have not the slightest

claim to expect the devotion of your private resources to the charges of your government. I further acknowledge, that the governor of so important a part of His Majesty's dominions must incur many expences, which not only do not promote, but which may tend greatly to impair his personal comfort and gratification. I also allow, that on taking possession of such an office, no man can abruptly reduce to any considerable extent, the scale of hospitality and of visible expenditure of his immediate predecessor, without incurring a loss of influence much more than proportionate to that reduction. All this being conceded, the inquiry is, whether you can properly maintain the expence of the government of Upper Canada on an official income, less than that of Sir John Colborne by the amount of the military allowances which he received as the chief officer in command of His Majesty's forces in the province. The advantages which he derived from the command of a regiment must be excluded from consideration : they formed an accidental accession to his income, and must be regarded as part of his private fortune, and not in any manner connected with his government.

Now, in attempting to determine how for an income of 3,350*l.* per annum is sufficient to provide for your reasonable expenses, including amongst them that liberal style of living which your station exacts, and which the public have been taught to anticipate, I have no rule for my guidance, except that which I may derive from Sir John Colborne's experience, and from your own. Earnestly disclaiming the presumption of constituting myself a judge of the wisdom of any part of your predecessor's domestic arrangements, I am yet compelled, by your reference to them, to remark that they seem to have been projected upon a plan according rather with the munificence of his disposition than with the exigencies of his office. I confess that I doubt whether a governor of Upper Canada, could with any justice be expected to extend his hospitality, to the numerous travellers attracted to the province by curiosity or other motives. Neither am I convinced that it could be really necessary or advantageous to provide entertainments for every colonist above the rank of a retail shopkeeper. Any person placed at the head of the local society must have it in his power, to no inconsiderable extent, to regulate the prevailing usages of all the wealthier classes on subjects of this kind ; and while he may be justly expected to take the lead in placing social intercourse on a liberal and agree-



able footing, will also be at liberty to inculcate and to recommend by his example those simple and prudent habits of life, which to a certain extent ought to prevail in every country, where there is a constant and increasing demand for the accumulation and employment of capital.

The experiment tried by Sir John Colborne, conducted as it was upon so large a scale, does I confess not appear to me conclusive. Your own experience, at the date of your despatch, embraced only eleven days, in which it is impossible that many hours could have been given to the consideration of any questions of domestic economy. I am thus without any ground on which I could recommend to parliament a grant in aid of your provincial income. If I possessed such grounds, His Majesty's government would infallibly be met in the house of commons by the assertion of the principle, that every colony should maintain its own civil government; a principle which, if it be respected in this country on the ground of national economy, is yet more justly valued in the colonies, as a security against the interference of parliament with their internal affairs.

If after a sufficient length of observation it shall be established to your satisfaction and my own, that your official income is inadequate to the demands to which your office reasonably subjects you, I shall think it my duty, not for your sake merely, but with a view to the permanent interest of the public at large, to stipulate for the necessary increase as a part of that civil list for which His Majesty's hereditary revenue is to be surrendered.

Such is the only answer which it is in my power to return to your despatch. I cannot suppose that you intended to open this discussion by compelling me to elect between the immediate and unqualified acceptance of all your terms, and the immediate acceptance of your resignation. I cannot conceal from myself, nor shall I affect to conceal from you, that your retirement from the office would be highly inconvenient in its direct, and still more in its indirect consequences. In the extent of your ability to distress the King's government, and to impede His Majesty's service, I find, however, the strongest security against your resort to the use of that power. The high opinion which I entertain of your character and principles is sufficient to prevent my doing you the injustice of believing that at so early a period, and without clear and indisputable



necessity, you will abandon the important trust so recently committed to your charge. You will, I am convinced, review the decision which you have announced, and withhold your final determination until you shall have maturely weighed the various considerations, of a public as well as a private kind, which appear to forbid your retreat from the arduous and therefore honourable station in which it has been His Majesty's pleasure to place you; for myself, at least, I must decline the responsibility of laying your resignation before the King, and of concurring in so untimely a change in the administration of affairs of the province, until I shall have received your answer to this despatch. You must permit me to commend the whole subject to your mature and patient reflection; and to remind you, that it is no longer possible for you to consider your personal concern in the question, except in its connection with national interests of the greatest importance.

I have, &c.

(Signed) GLENELG.

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*No. 6.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 30th March, 1836.*

I HAVE the honour to acknowledge the receipt of your despatch of the 23d February, No. 9, announcing that you had found it necessary to increase the number of executive councillors of Upper Canada, and that you had accordingly appointed to that situation, until His Majesty's pleasure should be known, Messrs. J. H. Dunn, R. Baldwin, and John Rolph.

I beg to convey to you my approval of this measure, and I shall have much satisfaction in recommending to His Majesty to confirm the appointment of these gentlemen. I have also to express to you my concurrence in the propriety of the course which you adopted with reference to the conditions attempted to be attached by Mr. Baldwin to his acceptance of the post of executive councillor, and I am happy to perceive that Mr. Baldwin has not, by persisting in his demands, deprived His Majesty's service of the advantage which will, I trust, result from his assistance at your councils.

I have, &c.

(Signed) GLENELG.

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No. 7.—*Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 31st May, 1836.*

YOUR despatch of the 6th April, announcing that you proposed on the 20th of that month to prorogue the legislature of Upper Canada, reached me on the 14th instant. No further intelligence has as yet been received at this department from the province.

You will readily understand with how deep an interest, I have perused your recapitulation of the events which have marked the last session of the legislature of Upper Canada, and how anxiously I have expected the arrival of those communications which would complete the records of its proceedings up to the date of its prorogation. In the absence of intelligence on these important points, I feel that it is not possible for me to convey to you any definite instructions for your guidance, or even to express any decided opinion on the course which you have hitherto pursued; but nevertheless I cannot allow the present opportunity to pass without an acknowledgment of your recent despatches, and without assuring you that my colleagues and myself are fully alive to the delicacy and difficulties of your situation, and are most anxious to relieve you in some degree from that undivided weight of responsibility, which the present posture of affairs has unavoidably devolved on you. The trust which we repose in your discretion and judgment, diminishes the anxiety which we should otherwise feel on this point. In whatever circumstances you may be placed, I am confident that your measures will continue to be distinguished by a firm, yet temperate and conciliatory exercise of the constitutional powers entrusted to you, and that you will by your conduct ensure to yourself the approbation of the well-disposed classes in the province, and vindicate His Majesty's selection of you for the important post which you now occupy.

Whenever your further despatches shall be received His Majesty's government will lose no time in devoting their attention to the whole subject of the present state of affairs in Upper Canada, and in conveying to you the necessary instructions for your guidance.

I have, &c.

(Signed)

GLENELG.

*No. 8.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 13th June, 1836.*

I HAVE the honour to inform you, that the petition to the house of commons from the assembly of Upper Canada, a copy of which you transmitted to me in your despatch of the 21st April, No. 26, was presented to the house by Mr. Hume on Friday last, the 10th instant.

In presenting the petition, Mr. Hume abstained from stating its contents or making any observations on its prayer, but he announced his intention of moving that it should be printed, with a view to its being considered on a future day.

On the usual motion that the petition should lie on the table Sir George Grey, stated, that, owing to the course adopted by Mr. Hume, he should also abstain at that time from any general observations on the petition, but that, having seen a copy of the petition he was aware that it contained a charge affecting your personal character, a charge which you had fully and openly met in a despatch addressed to me, and that he should therefore feel it to be his duty, should the house order the petition to be printed, to move for the production of so much of your despatch as related to that charge, in order that your statement might be before the house at the same time with the petition.

As it is not intended to offer any objection to the petition being printed, it is the intention of Sir George Grey to move immediately for the production of an extract from your despatch of the 21st April, and of the inclosures referred to in that part of the despatch, which will be produced, and which will be printed at the same time with the petition.

I need scarcely add, that I consider the explanation which you have afforded to be a full and complete answer to the charge which has been preferred against you.

I have, &amp;c.

(Signed)

GLENELG.

*No. 9.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 14th June, 1836.*

I AVAIL myself of the earliest opportunity which I have been able to find for acknowledging the receipt of the despatches enumerated in the margin.



It must be superfluous to assure you of the deep and lively interest with which His Majesty's government contemplate the recent proceedings in Upper Canada, or to state our conviction of the decisive influence which your measures must exercise on the affairs of British North America in general. With such views of the magnitude of the occasion, I find it impossible to discuss the various questions raised or suggested by the despatches before me, until I shall have been able to bring them fully under the notice of my colleagues, at the same time there are some topics which I do not think it right to postpone, and to which I shall for the present confine myself.

It is with equal surprise and concern, that I have read the terms in which, in your despatch of the 8th of May, you refer to my despatch, No. 40, of the 22nd of March. You observe that it is your duty to receive with silent submission all expressions of my disapprobation, and proceed to defend yourself against the charges which you understand me as having intended to prefer. I am, however, at once able and happy to say, in the most unqualified manner, that my despatch of the 22nd of March was not written with the design of conveying any reproof, or of intimating any disapprobation; and I am persuaded that on referring to it again, you will be satisfied that no room really exists for the less favourable construction which you have given to my words. Entertaining doubts of the conformity to parliamentary usage of one of your proceedings, and not satisfied as to the prudence of another, I expressed my views without the slightest reserve, though not without some uncertainty how far they might be well-founded. In thus addressing you, nothing could be more remote from my purpose than to censure your conduct; I simply availed myself of that privilege of frank and open intercourse, which must subsist between all persons jointly engaged in the pursuit of a common political object, and without which public affairs could never be conducted with safety or success. Ready as I am, at all times, to receive and to invite from the governors of His Majesty's colonies, the expression of any dissent from my own judgment, I think myself entitled to claim from them an equal freedom in avowing whatever difficulty I may feel respecting any of their measures. It is my earnest wish to maintain, with yourself especially, such habits of reciprocal confidence as shall, in our official relation to each other, ensure both of us against misconceptions, which might



be prejudicial to His Majesty's service, and to the general interests of the King's subjects.

Your construction of my despatch, No. 40, has given me the greater pain, because to address you in the language of reproof was not only remote from my real intention, but in direct contradiction to it.

Without anticipating the opinions which I may hereafter have to express respecting your administration of the government of Upper Canada, I cannot omit to acknowledge that it has been characterized by a zeal for the general good of the province, and by an energy, firmness, and promptitude of decision which entitle you to the cordial sympathy and grateful acknowledgments of the ministers of the crown. To be insensible to the spirit and the ability with which you have acted, and to give to occasional errors of judgment (if errors they really were) more attention than to the predominating motives and the broad character of your policy, is a reproach to which I cannot admit myself justly liable.

I will not pass over in silence, even on the present occasion, your demand for advancement to the dignity of a baronet, even though I am unprepared to convey to you my final answer on that subject. I trust that you will receive what I am about to state as intimating no foregone conclusion on the question, for it is in truth, under the peculiar circumstances of the moment, a question involving many considerations upon which I must necessarily consult with my colleagues in office.

I must, however, notwithstanding the strength of your expressions, venture to doubt whether, on more mature reflection, you would really think it right to make your continuance in your present office dependent on the immediate acquiescence in that demand. I do not suggest those considerations which more immediately relate to your own personal honour and reputation in this matter, because a right to touch on such topics is among the privileges only of private and personal intimacy; but I am perhaps at liberty to remind you of the claims, which the King, and His Majesty's subjects at large, are entitled to prefer, and to which I am convinced that you are keenly alive. It is not less true in civil than in military life, that the moment of peril is never to a brave and loyal man, the moment of retreat. Of all men he is least entitled to retire at such a season, who, in a just and fearless reliance on his own resources, has undertaken an

arduous responsibility which it might be impossible to devolve on a successor. He who acts in this spirit may be fairly said to have given the most sacred pledge to abide the issue of his own undertaking. Nor need I remind you, that no one who in that spirit perseveringly and successfully serves the King, on a conspicuous theatre of action, can justly doubt that the reward of such generous self-devotion will be dealt out with no niggard hand, by his King and country.

I have but one other topic to notice at present. You demand a full and unfettered discretion in the conduct of the affairs in which you are engaged, and deprecate all unnecessary interference. His Majesty's government, while they respect the independence, subscribe to the justice of this claim. On this subject I cannot explain myself more clearly, than by transmitting to you the accompanying extracts from a despatch, which on the 8th instant I addressed to the Earl of Gosford. You will receive them as entirely confidential, but as containing rules for your own guidance.

I trust that my promised communication will not be long delayed, but I must guard myself against entering into any specific pledge as to the time when I shall be able to transmit it to you.

I have, &c.

(Signed)

GLENELG.

*No. 10.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 25th July, 1836.*

IN my despatch of the 14th ultimo, No. 64, I acknowledged the receipt of various despatches from you, although I stated that I was unable to discuss at that time all the questions raised or suggested by them. I enumerate in the margin the series of despatches to which it is my present purpose to advert, including those referred to in mine of the 14th of June. I would not willingly have departed from the rule of official correspondence, which requires that a separate answer should be returned to each distinct communication; but the various topics brought under my notice in this series of despatches, are so intimately blended with each other that I find a strict adherence to that rule in the present instance impossible.

1. Of these topics, the first in order of time is the appointment of Captain Macaulay to the office of surveyor-general.

Your proceedings in regard to the late surveyor-general, Mr. Hurd, are entitled to my unqualified approbation; in calling upon that gentleman to resign, you discharged an invidious duty with equal firmness and moderation. I also approve your refusal to appoint Mr. Radenhurst as his successor, notwithstanding the number and weight of the testimonies in favour of that gentleman. I do not inquire whether the charges preferred against Mr. Radenhurst, of a breach of trust in the subordinate office which he had so long filled, were well founded or otherwise,—that inquiry is not necessary to the consideration of his claims for advancement,—I must look at him, not in the light of a person called upon to exculpate himself from the imputation of a grave offence, but as a candidate for a public trust of the highest importance; and in this view of the matter I am bound to decide against his claims, conceiving it to be impossible that he should enjoy public confidence.

The appointment of Captain Macaulay appears, in so far as his personal character and qualifications for the office are concerned, to have been entirely unexceptionable. But as Captain Macaulay deliberately tendered the resignation of that office, without any explanation of his motives, but (to quote his own language) “on grounds which, as a well-wisher of the government, were with him paramount,” I cannot hesitate to accept that resignation, and to impose on you the duty of making another choice.

2. The proceedings which led to the resignation of the executive council next demand my attention. In the address of the 4th of March from that body to yourself, I understand them to maintain, that the constitutional act of 1791, imposed on the governor, the duty of communicating with the council on every act of his administration, and required him on every occasion to abstain from the exercise of his powers until he had first weighed and had either adopted or rejected their advice. Their address must further be understood as an assertion that the people at large believed such to be the system actually observed by yourself and your predecessors; and in the event of your not being disposed to adhere to it, the members of the council demanded your permission to disabuse the public mind on this subject.

From the construction thus given to the act of 1791 I must altogether dissent; nor do I know that it would be possible to refute it in terms more complete and satisfactory than those



employed in your answer of the 5th March. I find it moreover very difficult to believe that the people of Upper Canada at large, supposed such powers to be habitually and practically exercised by the executive council. In so contracted a society as that of Toronto it is impossible that the public should not have been better informed on a question of such general interest, and respecting which the means of obtaining correct intelligence could not have been really wanting.

When I advert to the length of service of Messrs. Robinson, Markland, and Wells in the council, and to their constant acquiescence in the practice which they at length denounced as unconstitutional, I have no difficulty in declaring my opinion that you judged and acted rightly in calling upon them to resign their seats at the council board. You will inform them that His Majesty has been pleased to accept their resignations.

With regard to Messrs. Dunn, Baldwin, and Rolph, who had very recently taken their seats at the board, there is, I think, room for a much more favourable interpretation of the terms of the address of the 4th of March. Differing as I do from them as to the construction of the act of 1791, and doubting the prevalence of the opinion which they requested permission to contradict, I am yet willing to believe that they signed the address under the influence of no motives but such as might have been reconciled with their duty to the crown, and with their cordial co-operation with yourself in the proper business of the executive council. Some indulgence may perhaps have been due to the novelty of the situation in which they found themselves placed, and to distrusts which a more intimate acquaintance with you, might perhaps, have promptly dispelled. I admit, however, unreservedly, that so long as they continued to assert the right of intervention, in every act of the executive government, it was impossible that you should receive them as members of your council. Messrs. Baldwin and Rolph having adhered to that demand, your breach with them was unavoidable. Mr. Dunn having offered to recede from it, a distinction, as it seems to me, might have been made in his favour.

You took, indeed, an objection to the address of the 4th March, which, if well-founded, certainly left no possibility of separating the case of any one member from that of his associates. Your answer represents that address as asserting the

principle, that the members of the executive council are to be responsible, not to the King or to His Majesty's representative in the province, but to the people, or to the popular branch of the legislature. Whether a latent meaning of this kind may really have been entertained in any quarter, it is not for me to decide ; no such pretension, however, appears to have been distinctly avowed by the members of the council themselves. When I advert to the state of public affairs in the province, at the period in question, I cannot but admit that you had probable grounds for assuming that the construction which you placed on the address of the 4th of March, was not, in fact, at variance with the meaning and purpose of the authors of that document. Still I am not satisfied that it was judicious to ascribe to their language an offensive sense of which it is not necessarily or properly susceptible ; it strikes me, on the contrary, that a needless disadvantage was incurred by thus preferring a charge to which the accused parties might assert that they had not rendered themselves liable.

3. From a consideration of your proceedings regarding the executive council, I naturally advance to a still more important subject.

After reviewing the conduct of the house of assembly from the time of the resignation of the six members of the council, to the close of the session, and after considering the language of the house and of its committee, on the topics at issue, between you and the councillors, I must own myself at a loss to determine what is the precise principle on which, as to the question of responsibility, the majority of the house were finally prepared to take their stand. The language of the house, indeed, in its addresses and resolutions, would embrace that principle in its utmost latitude ; so also in the report of the committee, there are some passages which appear to maintain that doctrine in the largest sense in which it has ever been put forward in any of the colonies, namely, that as in this kingdom the King acts on the advice of responsible ministers, so in the Canadas the governor is to act on the advice of a responsible council. There are again other passages in the report, which present the principle in a more modified character, limiting it to the obligation imposed on the lieutenant-governor to consult the executive council on all public questions, although at the same time admitting his freedom to act in opposition to their

advice. But, in order to judge of the propriety of your proceedings, it is quite unnecessary to inquire what may have been precisely the views of the house of assembly. Whatever may have been their meaning, the course of conduct which they adopted, and the position which they assumed, seem to me to have made a rupture with that body unavoidable. Let it be assumed that the principle for which they desired to contend, was by them taken in the more moderate of the two senses already stated, and let it be admitted further, which certainly I am by no means prepared to admit, that this principle is calculated to advance the well-being of the province, still, as no such principle can be recognized, either as incorporated in the text or exemplified in the practice of the provincial constitution, the house was surely not entitled to adopt the extreme measure of stopping the supplies on this occasion. Much indeed is it to be regretted that this great constitutional resource was resorted to for the purpose of attempting to enforce changes in the system of government itself, changes, more especially, which neither His Majesty's representative in the province, nor his subordinate officers, have power to introduce. Under these circumstances, and with the strong conviction which you entertained as to the general dissatisfaction of the inhabitants with the conduct of their representatives, I approve your prorogation and subsequent dissolution of the assembly.

4. The house has ascribed to you, a wilful departure from truth, on the subject of Mr. Sullivan's contingent accession to the government of Upper Canada. On this point, I have already expressed to you my opinion that your defence is satisfactory and conclusive.

5. With respect to the reservation of the money bills for the signification of His Majesty's pleasure, and the refusal of the contingencies of the house, although I am of opinion that such measures ought not to be resorted to except on grounds of the most cogent necessity, I am disposed, with the information which I at present possess, to think that, committed as you were to a great contest, and encountered by an unreasonable employment of weapons, reserved only for extreme emergencies, you were justified in summoning to your aid all the powers which the constitution has in store for such a crisis.

6. I now proceed to your recommendation that Mr. Dunn should be removed from the office of receiver-general. Dis-



posed as I am at all times to accede to your wishes, I must own myself unable to comply with the present suggestion. I have already said that I distinguish favorably Mr. Dunn's conduct from that of his fellow councillors. He is chargeable neither with the inconsistency of Messrs. Robinson, Markland, and Wells, nor with the peremptory adherence of Messrs. Baldwin and Rolph, to the demands made in the letter of the 4th of March. Widely as I differ from Mr. Dunn in his construction of the act of 1791, I do not presume to censure his frank and firm assertion of an opposite judgment, which, when apprized of your dissent, he expressed his readiness not to urge to any practical consequence inconsistent with the faithful discharge of his duty. The only other error attributed to him is that of having written in the ordinary language of courtesy respecting a proceeding of the house of assembly—a proceeding to which he lent no aid or countenance, and of which indeed he had never heard until it was officially made known to him. So far am I from reprobating Mr. Dunn's adherence to the conventional language of respect, in alluding to any act of the representatives of the Canadian people, that I should have been ready to condemn as unprofitable, and as injurious to the cause of good government, the employment of a less measured and ceremonious style.

7. On referring to the addresses from yourself to public bodies in the province, which accompany your despatches, I feel pleasure in doing justice to the ability, decision, and ardent zeal for His Majesty's service by which they are in general characterised, and to the soundness of many of the principles which they assert and vindicate. But I am compelled to express, however reluctantly, a wish that some of the expressions contained in them had been more carefully weighed, and that you had more studiously maintained the temperate forbearance and reserve, by which such compositions are usually distinguished, and by which alone, they can be effectually recommended to the respectful and dispassionate attention of society at large.

8. Your despatch of the 1st of June, No. 41, tenders the resignation of your office, on the ground "that you do not agree in opinion with the commissioners of inquiry in Lower Canada," and that, "as regards their policy, you have not an idea in common with them," and because "their policy has a demo-

cratic character, to which you cannot justly conform." To these general remarks you proceed to add censures, of no ordinary severity, of a particular act of Lord Gosford's administration, viz. the promotion of M. Bédard. Respecting M. Bédard's preferment, it may be sufficient to observe, that you are very imperfectly acquainted with the circumstances of the case, and with the motives which influenced Lord Gosford's conduct. On much more ample information His Majesty has been graciously pleased to approve and confirm that choice.

Your remarks respecting the reports of the commissioners are, I must be permitted to think, premature, as His Majesty's decision upon those reports is not yet known. I shall not enter into any explanation of the opinions which I entertain in regard to the questions discussed by the Canada commissioners, nor can I advise His Majesty to accept your resignation on the ground on which it is thus placed.

In my despatch which accompanied your commission, I have attempted to lay down, with the utmost possible precision, the principles on which His Majesty expects and requires you to act. Those instructions I see no reason to depart from or to qualify. I trust that you will steadily adhere to them as the rule and guide of your conduct, even when they may coincide with the reports of which you have pronounced so unqualified a condemnation. If, indeed, I were to understand your tendered resignation as declaratory of any purpose to administer the government of Upper Canada in opposition to the principles recorded in those instructions, then, whatever pain and regret it might cost me, I should certainly feel myself bound in good faith and consistency to advise His Majesty to accept your offer; but, without an evident necessity, I will not so construe your expressions, nor permit myself to doubt that you are resolved, under all circumstances, to conduct the government of Upper Canada in no other spirit and no other principles, than those which pervade your original instructions. His Majesty's government look to no transient results or temporary triumphs; they seek to allay public discontents, and to promote the general good of the people, by a resolute adherence, under every change of accidental circumstances, to what they must esteem as sacred and immutable rules of British North American policy,—rules which will rather gain than lose in importance, if, as I trust, a period is approaching at which the affairs of Upper

Canada may be adjusted, with an assembly prepared to regard the maintenance of the constitutional rights of the other branches of the legislature, as essential to the preservation of its own legitimate authority and privileges.

9. On the subject of your claim to be advanced to the dignity of a baronet, I refer you to my despatch of the 14th June, No. 64, as containing the *final* decision of His Majesty's government.

I have, &c.

(Signed)

GLENELG.

*No. 11.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 25th July, 1836.*

I HAVE to acknowledge the receipt of your despatch of the 21st March, No. 17, notifying your appointment of Messrs. Sullivan, Elmsley, Baldwin, and Allen, to the executive council of Upper Canada. I have submitted the names of these gentlemen to His Majesty in council, and I trust that by the next opportunity I shall have it in my power to convey to you His Majesty's decision thereon.

I have, &c.

(Signed)

GLENELG.

*No. 12.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 25th July, 1836.*

I HAVE the honour to inform you that I have received from Mr. Bidwell a letter, dated the 25th April last, containing some observations on your administration of the government of Upper Canada, and more particularly referring to communications which he states to have passed between you and himself. You are aware that the rules which, upon public grounds, have been established in regard to correspondence with this department, preclude me from receiving any communications from the colonies involving matters of provincial interest, except through the governor of the colony in which the writer may be settled. It is unnecessary to say, that in the present instance I cannot depart from that rule; still less can I entertain statements inculcating the governor of a colony, unless that officer shall have had the most ample opportunity of answering them.

I have therefore not felt myself at liberty to take Mr. Bidwell's letter into consideration until you shall have had an



opportunity of offering in regard to it any remarks which you may consider necessary. For this purpose I request that you will apply to Mr. Bidwell for a copy of that letter.

In addressing to you my acknowledgment of Mr. Bidwell's letter, that gentleman will understand that I mean no personal discourtesy toward him, but that I act according to a rule which has been invariably applied to all similar cases.

You will communicate a copy of this despatch to Mr. Bidwell.

I have, &c.

(Signed) GLENELG.

*No. 13.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 25th July, 1836.*

I HAVE the honour to inform you, that I have received from Mr. Rolph a letter containing a statement of the circumstances which led to the resignation of the late executive council of Upper Canada, and commenting at considerable length on your conduct, and on that of the other parties concerned in that transaction. You are aware that the rules which, upon public grounds, have been established in regard to correspondence with this department, preclude me from receiving any communications from the colonies involving matters of provincial interest, except through the governor of the colony in which the writer may be settled. It is unnecessary to say, that in the present instance I cannot depart from that rule; still less can I entertain statements inculcating the governor of a colony, unless that officer shall have had the most ample opportunity of answering them; I have therefore to request that you will apply to Dr. Rolph, for a copy of his letter to me of the 27th April, in order that you may furnish me with any remarks which may appear to you to be called for, by the statements contained in it.

In addressing to you my acknowledgment of Mr. Rolph's letter, that gentleman will understand that I mean no personal discourtesy towards him, but that I act according to a rule which has been invariably applied to all similar cases.

You will communicate this despatch to Mr. Rolph.

I have, &c.

(Signed)

GLENELG.

*No. 14.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 25th July, 1836.*

I HAVE the honour to inform you that I have received from

Mr. T. D. Morrison a letter, dated Toronto, 29th April, 1836, imputing to you a misquotation from the report of the committee of 1835, on public grievances, in your speech at the close of the late session of the provincial legislature. I have to request, according to the usual course in the case of such representations being addressed to me, that you will call on Mr. Morrison for copy of his letter to me, in order that you may be able to supply me with any observations on it, which you may consider it to require.

In addressing to you my acknowledgment of Mr. Morrison's letter, that gentleman will understand that I mean no personal discourtesy towards him, but that I act according to a rule which has been invariably applied to all similar cases.

You will communicate this despatch to Mr. Morrison.

I have, &c.

(Signed) GLENELG.

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*No. 15.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 30th July, 1836.*

I HAVE the honour to transmit to you herewith the copy of a letter which has been addressed to me by Mr. R. Baldwin, relative to certain recent proceedings in Upper Canada; and I am to request that you will favour me with any observations on the subjects noticed by Mr. Baldwin which may appear to you necessary for my information.

I have, &c.

(Signed) GLENELG.

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*Inclosure in No. 15.*

MY LORD, *4, Trinity Court, Charing Cross, 26th July, 1836.*

I TAKE the liberty of inclosing to your lordship a Toronto newspaper of the 22d ult. and of drawing your lordship's attention to the resolutions of the constitutional reform society on the subject of the appointments of places for holding the elections as well as the appointment of Mr. Kerr as one of the returning-officers. It is for your lordship to judge whether the course adopted by Sir Francis Head in these particulars is that which would have been pursued had it been really his desire to obtain the calm and deliberate opinion of the country.

I also beg to refer your lordship to the reply of Sir Francis Head to the address presented to him on the subject of the

foreign interference to which he had alluded in one of his preceding replies. I learn by my private letters, that in consequence of his Excellency refusing all satisfaction as to whence he had derived his information on the subject, a letter was addressed to the authorities of the neighbouring state of New York; and I subjoin an extract which has been sent me from the answer of the secretary of state of that republic, which will show your lordship the light in which strangers view the conduct of the lieutenant-governor in spreading an alarm on the subject of foreign intervention.

I have also taken the liberty of marking for your lordship's consideration the account of the tunes which, as a sort of practical commentary on the reply of the lieutenant-governor to the house of assembly last winter on the subject of orange societies, are in requisition at the public dinners of his Excellency's artisans.

In one of the letters which I have received from Toronto my correspondent writes, that he dreads that the consequence of the conduct of the government will be the agitation of independence, or at least elective governors as well as council. In another the writer says, he cannot venture to tell me all that he hears of the unworthy contrivances of the tory party to anticipate votes, that it is still muttered amongst them, the use of location tickets, and he fears they will dare to do so; if so, that it will hasten more rapidly the conviction of the people, that they must separate from England. He remarks, that the use of location tickets at once nullifies the freeholders throughout the province, and the men returned to the assembly must be the representatives of the tenants at will of the crown, and not of the freeholders of the province; and adds, "you know the people will not long bear this."

These are the observations of gentlemen whom I know to be warmly attached to the preservation of the connection between the two countries, and to monarchical institutions. It is true they write from a scene of much violence and excitement; but making every possible allowance on that ground, when such conclusions are forced upon the minds of such men, there can be but little doubt that there is much to alarm even the most indifferent.

I make these statements to your lordship, because I foresee that if Sir Francis Head is continued in the government of



Upper Canada, and the same fatal system pursued in the administration of its affairs, separation from the mother country is inevitable, and I am most desirous that when that event takes place, I at least may feel fully acquitted of having omitted any thing which might, by placing before your lordship the real state of the country, have led to a more happy result.

*Right Honourable Lord Glenelg.* I have, &c.

&c.      &c.      &c.

ROBERT BALDWIN.

At a meeting of the constitutional reform society of Upper Canada, on Friday the 10th June, W. W. Baldwin, Esquire, in the chair, the following resolutions were unanimously adopted:—

1st, That it is currently reported that the executive of the province have fixed upon the following places in their respective counties for holding the ensuing elections; viz.

Nelson in the Co. Halton.

Kingston in the Co. Frontenac.

Beverly in the Co. Leeds.

That a gentleman was deputed by the electors of the county of Halton to solicit his Excellency to alter the place for holding the election in that county, on the ground that it is at the extreme boundary of the county, close to the residence of Mr. Chisholm, one of the tory candidates, and at a distance of thirty or forty miles from the most populous townships in the county; that his Excellency admitted that the place fixed on was improper, and also admitted that he had received many similar complaints from other places, and gave that as a reason why he could not alter the place of election in one instance, as he would have to do so in others.

2nd, That it is the first time for many years past that the town of Kingston has been named as the place for holding the election for the county of Frontenac, and this meeting cannot help fearing that it has been fixed on with a view of overawing, by means of a tory mob, the independent yeomanry of the county.

3rd, That it is with still deeper regret that this meeting finds that it is currently reported that Beverly, in the county of Leeds, has been fixed on for holding the election for that county, it having been the place where at two successive elections the freeholders of the county were driven from the hustings by a body of armed partisans, and two individuals returned as representatives by

violence, who when a fair election was obtained were left in a considerable minority.

4th, That this meeting is constrained solemnly and deliberately to record its opinion, that if violence and bloodshed ensue at the elections in the before-mentioned counties, the person administering the government of this province must be responsible for the consequences, more particularly as the returning-officer in one of these counties is an individual who has been convicted by a jury of his country of a most unprovoked and wanton assault on that sterling reformer W. L. Mackenzie, Esquire.

(Signed) W. W. BALDWIN.  
Chairman.

*To His Excellency Sir F. B. Head, &c. &c.*

MAY IT PLEASE YOUR EXCELLENCY,

WE, the undersigned electors of the city of Toronto, have read in your Excellency's answer to the address of certain electors of the home district the following language:—"They (the people of Toronto) are perfectly aware that there exist in the lower province one or two individuals who inculcate the idea that this province is about to be disturbed by the interference of foreigners, whose power and whose numbers will prove invincible. In the name of every regiment of militia in Upper Canada I publicly promulgate, '*let them come if they dare.*'" We do not doubt the readiness with which would be answered upon any emergency your appeal to the militia, which appeal we are satisfied would not have been made without adequate cause. In a matter so seriously affecting the peace and tranquillity of the country, and the security of its commerce, we beg to learn from your Excellency from what quarter the invasion is alleged to be threatened.


The above was presented on Saturday the 11th instant at two o'clock.

Deputation.—Messrs. Hincks, Dr. Tims, Doel, Alexander, Beattie, Wm. Lesslie, J. Anderson.

*Governor's Answer.*

Gentlemen,—The idea which is inculcated by one or two individuals in the Lower Province, "that this province is about to be disturbed by the interference of foreigners," is too noto-

rious to be denied, and I have therefore no further observations to make to you on this subject.

 The *Hamilton Gazette* contains the account of a dinner at Springfield, attended by Mr. E. W. Thomson and other opponents of Mr. Mackenzie, where the tunes were, "the Boyne Water," "Protestant Boys," and "Croppies lie down." These party proceedings lead to unhappy differences, and had better be avoided.

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*Copy of the Extract referred to in the foregoing Letter.*

The answer of your lieutenant-governor, dated the 28th ult., to the address of the electors of the home district, was received here and in Albany with equal surprise and regret. The state of New York is not directly referred to; but our local position in relation to Upper Canada is such, that we are almost constrained to believe that our own citizens are intended by the designation of "foreigners," whose interference is deprecated.

I gave a copy of address to Governor Marcy, and he would not hesitate to notice it officially, if under the circumstances he could do so with propriety, but he does not perceive that he can. I am however authorized by him to say, that he does believe not a single citizen of this state entertains the design of interfering in any manner with the political affairs of Canada, nor has he ever heard such a design imputed to any individual. If your lieutenant-governor had thought proper to communicate to the executive of this state the grounds on which the intimation referred to was thrown out, a course which certainly seems due to the friendly understanding subsisting between us, it is believed that all cause for suspicion would have been removed, so far as the citizens of this state are concerned. As it is, we cannot but think that great injustice has been done to us, by ascribing to any of our citizens criminal designs of which they are innocent, and to the people of Canada, by exciting distrust and alarm for which there is no shadow of foundation. You may rest assured, that the universal desire of the people of this state, and of our sister states, is to maintain unimpaired the relations of friendship which happily exist between the United States and Great Britain; and that the authority of this state and of the union, would be promptly interposed to put down any attempt on the part of those, subjects to their respective jurisdictions, to interfere



with the political concerns of Canada, or any of the British dominions. It is no more than just to the citizens of the United States to add, that a recent instance of magnanimity on the part of Great Britain has strengthened the desire to which I have referred; and I am sure that the moral sense of our whole community would revolt at the idea of repaying that act of friendship with bad faith, which your lieutenant-governor, as we suppose, intended to attribute to some of us.

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*No. 16.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 20th August, 1836.*

WITH a view to prevent any misapprehension as to the nature of the communications, which, since his arrival in this country, have been addressed to me by Mr. Baldwin, I have the honour to inclose herewith, for your information, copies of all the correspondence which has passed between that gentleman and this department.

I have, &c.

(Signed)

GLENELG.

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MY LORD, *Trinity Court, Charing Cross, 20th June, 1836.*

ALTHOUGH not the agent for the petition from the house of assembly of Upper Canada, lately presented to the house of commons by Mr. Hume, I take the liberty of most respectfully requesting permission to state fully to your lordship, personally, the particulars of the late political transactions in that province, as far as I have myself been connected with them, and the principles by which I was governed in adopting the course which I felt it my duty to take on that occasion; and also of laying before your lordship fully and frankly my view of the present state of the province, with reference to the great question now at issue between the lieutenant-governor and the house of assembly; and respectfully submitting what appears to me to be the only possible means of preserving the connection with the mother country, which, permit me most solemnly to assure your lordship, I am most sincerely anxious to perpetuate.

I would take the liberty of calling your lordship's attention to the two following facts, already before your lordship in the documents transmitted from Upper Canada; first, that it was at the earnest solicitation of the lieutenant-governor himself, after

a full and frank explanation of my views and principles, that I was most reluctantly induced to accept a seat in the late executive council, and that I was afterwards compelled to resign the place thus pressed upon me by having been called upon by his Excellency to abandon those principles or retire from his confidence; and, secondly, that for joining, together with my colleagues, in a respectful and confidential representation to his Excellency, recommending what his Excellency, previous to soliciting me to take office, knew me to consider absolutely necessary to the success of his government, I and my late colleagues, most of them servants of the crown of long standing, have been denounced by his Excellency, in his speech from the throne, as "having officially combined together in an unprecedented endeavour to assume" what his Excellency considers his responsibility.

I feel assured that, when your lordship calls these circumstances to mind, and, above all, considers that "the present," to use the terms of your lordship's despatch to Sir F. Head, "is an era of more difficulty and importance than any which has hitherto occurred in the history of that part of His Majesty's dominions," and that it is at least possible that your lordship may be better able to come to a satisfactory conclusion upon the subject, after having it explained by one who was considered by the lieutenant-governor himself as capable of being, in some degree at least, useful to His Majesty's government in the administration of the affairs of the province, and who, moreover, was himself, in part an actor in the very affairs upon which your lordship is called upon to decide; your lordship cannot justly consider as unreasonable the request which I now make for the honour of personally communicating with you on a subject so important to myself personally, and to the best interests of my native province.

I have, &c.

(Signed) ROBERT BALDWIN.

*The Right Hon. Lord Glenelg.*

&c.      &c.      &c.

SIR,

*Downing-street, 28th June, 1836.*

I AM directed by Lord Glenelg to acknowledge the receipt of your letter of the 20th instant, transmitted to him by Mr. Hume, requesting that his lordship would afford you an opportunity of

stating to him personally the particulars of the late political transactions in the province of Upper Canada, in so far as you have been connected with them. In reply Lord Glenelg desires to observe, that he is solicitous at all times to receive the fullest information from every quarter relating to the interests of the British colonies, and at the present time more especially, relating to Upper Canada, and the events which have recently taken place in that province. His lordship, however, while he accepts with thankfulness your offer to make some communications to him on that subject, is yet inclined to think that, under existing circumstances, it would be more advisable that such communications should be made in writing than in conversation. He requests therefore that you will be so good as to favour him, in writing, with such intelligence and observations as you may think of importance to bring under the consideration of government.

I have, &c.

*Robert Baldwin, Esq.*

(Signed)

J. STEPHEN.

&c. &c. &c.

MY LORD, 4, *Trinity-court, Charing-cross*, 13th July, 1836.

I HAVE to acknowledge the receipt of a letter from Mr. Stephen, in reply to mine of the 20th ultimo, requesting the honour of an interview with your lordship on the public and private grounds referred to in my former letter.

As your lordship does not deem it advisable to accede to my request for a personal interview, I will not trespass on your lordship's time by any further reference to myself, or the injustice of which I, and indeed all my late colleagues, have reason to complain, of having received at the hands of the lieutenant-governor. More than enough is already before your lordship to place this in a very strong light. Your lordship, I feel assured, cannot approve of the conduct of Sir Francis Head, however necessary you may imagine it to be not publicly to condemn it; and I can personally have no desire to pursue the subject. I will only take the liberty of assuring your lordship, that, as it was no desire of place that induced me to accept the seat pressed upon me by Sir Francis Head, nothing but a desire of justifying myself to the government under which I was born, and to which I am both by duty and affection still most warmly attached, could, as far as I am myself personally concerned,



have induced me to trespass on your lordship by the request. I shall take it for granted, however, that your lordship will do us the justice to point out any particulars in our conduct on the late occasion which in your estimation may appear culpable, or such as to call for further explanation.

But, my lord, I am deeply impressed with the responsibility which the present state of Upper Canada necessarily throws upon every man connected with it. As my native country, its prosperity is necessarily to me an object of the most intense anxiety. Educated in the warmest attachment to the monarchical form of government, believing it to be the best adapted to secure the happiness of the people, and fully sensible that it can be maintained in Upper Canada only by means of the connection with the mother country, I have always been most earnestly anxious for the continuation of that connection; I believe it to be now endangered; I sincerely believe the crisis to have arrived which is to decide the ultimate destiny of Upper Canada, as a dependency of the British crown. I feel therefore that it would be criminal in me to refuse compliance with your lordship's request, to communicate with you in writing on the subject of the present state of that province, and the events which have recently taken place there. At the same time, I cannot but feel that, although there may be some advantage in this mode of communication, where principles are merely to be laid down, they are more than counterbalanced by the disadvantages attendant upon it where principles are not only to be laid down but discussed, and the details connected with them, and the political situation of a country in a state of high and dangerous excitement, enlarged upon and disposed of.

I shall, however, as clearly as I can, state to your lordship my view of the present state of the province with reference to the principle contended for in the recent memorial from the house of assembly to the imperial house of commons, and the value and importance of that principle in producing harmony among the several branches of the provincial legislature, and inspiring the people with confidence in the home and provincial governments; and will conclude with most respectfully submitting my opinion as to the course which, with all deference for the opinions of others, it appears to me to be absolutely necessary should be promptly taken for preserving the connection of that colony with the mother country.

If it is the desire of the mother country, which I of course assume it to be, to retain the colony, it can only be done either by force or with the consent of the people of Upper Canada themselves. I take it for granted that Great Britain cannot desire to exercise a government of the sword, and that she will therefore only govern the Canadas so long as she can do so with the concurrence of the people. For the purpose, therefore, of continuing the connection upon this footing, it is absolutely necessary, first, that the political machinery of the provincial government should be such as shall work harmoniously within itself, without collision between any of its great wheels; and, secondly, that it should be such as that the people may feel that they have an influence upon it sufficiently powerful to secure attention, not only to their abstract rights, but to their feelings and prejudices; without regard to these, you can govern no people satisfactorily or successfully.

That the constitution of Upper Canada, administered upon the principles heretofore applied to it, has failed to accomplish either of these objects, a very cursory view of the history of the colony, without reference to the admission contained in one of your lordship's late despatches, will sufficiently demonstrate. It may, however, be well to state, that the differences alluded to are of a much earlier date than appears to be generally known in this country, or, until lately, to have been recollected even in the department over which your lordship presides. As early as in the provincial parliament of 1820, an opposition, respectable, if not formidable, both in talent and numbers, existed; some of the leading members of which not only expressed their entire want of confidence in the provincial executive, but adopted the principle now contended for as a part of their political creed, and assumed it as necessarily pertaining as much to the provincial constitution as to that of the mother country. During the whole of that parliament the opposition were generally in a minority. In the parliament of 1824, and in that of 1828, the executive were uniformly in an inconsiderable minority. In that of 1830, owing to circumstances to which it is not worth while now to allude, the executive obtained a majority; but in that of 1834 they were again in a minority. So that, taking the twelve years from 1824 to 1836, the provincial executive have been in the minority for eight years and three parliaments, and have had a majority only for four years and one parliament. During

the whole of this time also the house of assembly were constantly passing bills which the legislative council as uniformly threw out.

As, therefore, the present constitution, administered up on the principles heretofore applied to it, has failed in both particulars, I mean in working smoothly itself or satisfying the people, it necessarily follows that something must be done to accomplish the objects desired. To this end four remedies have been proposed:—First, to make the legislative council elective; secondly, to abolish it; thirdly, to concede certain isolated points which have been earnestly called for by the representatives of the people; and, fourthly, to put the executive council permanently upon the footing of a local provincial cabinet, holding the same relative position with reference to the representative of the King and the provincial parliament, as that on which the King's imperial cabinet stands with respect to the King and the parliament of the empire, and applying to such provincial cabinet, both with respect to their appointment to and continuance in office, the same principles as those which are acted upon by His Majesty with respect to his imperial cabinet in this country.

The two first remedies, if not inexpedient, I look upon as at least wholly insufficient of themselves to accomplish the objects desired; the third as equally insufficient of itself to do so; and the last as the only remedy by the application of which those objects can be attained, and Upper Canada preserved to the mother country.

First. The making the legislative council elective I look upon as inexpedient; among other reasons, because I am of opinion that the institutions of every colony ought, as nearly as possible, to correspond with those of the mother country. The upper house of the imperial parliament not being elective, I would therefore not have the upper house of the provincial parliament elective, unless under the pressure of an absolute necessity. I moreover disapprove of the adoption of such a measure, at all events at present, because it is, as a general principle, inexpedient to make an alteration in the form of the constitution of any country, until the necessity for such change has been demonstrated by putting into full and efficient operation the existing constitution in all its details, which cannot be said to have been done with that of Upper Canada, until the executive council is practically converted into a provincial cabinet for the



local and internal affairs of the province. Had this been done ten or twelve years ago, when the executive first found themselves in a decided and uniform minority in the provincial parliament, I am satisfied that an elective legislative council would not now have been thought of. And I am not without hopes, although they may prove fallacious, that it is not yet too late, by the adoption of this principle, to render such change in the constitution unnecessary; but at all events, as a remedy amounting merely to the application of an English principle to the constitution as it stands, it ought yet to be tried fully and fairly, previous to resorting to the more violent measure of a legislative change in the charter. It is but right, however, to inform your lordship, that although my opinion of the inexpediency of such a change in the organization of the legislative council is concurred in by many, I believe a considerable majority of the reformers of the province (which every day's delay is increasing) think that such change will ultimately be found necessary. After the intimation contained in your lordship's despatch, and out of regard to the opinions entertained by us, who on this point differed from them, they were, however, willing to drop the question of an elective legislative council, until the constitution as it should have been fully and fairly tested by the application of those principles which have been found so valuable and necessary in the successful working of that of the mother country; and whatever may be the opinion entertained, as to the expediency or inexpediency of making the legislative council elective, I believe none exists as to such change being found wholly insufficient of itself to accomplish the two objects desired. The making the legislative council elective might convert that body into an additional engine of hostility against the executive government, but could never supersede the necessity for the concession of the principle contended for; resistance to the concession of this principle may drive the reformers into unanimity in the call for an elective legislative council, but it will only be as a means, and not as an end; and when that state of things arrives, be assured England will have lost her last hold upon the *affections* of the great mass of the people of Upper Canada. That such change in the constitution of the legislative council would not be found to produce harmony between the three branches of the provincial government will readily be admitted, when it is remembered that the collision which has produced so much evil has not been merely

between the representative branch of the government and the legislative council, but between the representative branch and the executive government. The complaint has always been of the influence of the executive upon the legislative council, and not of the influence of the legislative council upon the executive government. It were idle, therefore, to expect unanimity while you have untouched the main source of discord.

Secondly. To the proposal to abolish the legislative council, although most of the reasons against making it elective will equally apply, it may, in addition, be urged that a second chamber of some kind has, at least in modern constitutional legislation, been deemed essential to good government. It has not been dispensed with in any of the new constitutions of any of the neighbouring republics ; and has, in more instances than one, been not long since adopted as an improvement to the political machinery of government, where the previous constitution had contained no such provision ; and, moreover, the abolition of the legislative council has not been asked for by any portion of the Canadian people.

And as to the third remedy proposed, that of conceding certain isolated points as they arise and are called for, I will only say that the whole history, not only of the Canadas, but of the colonies in general, shows that such course, as a means of producing permanent satisfaction and harmony, has wholly failed. Nor, indeed, does it appear to me to require much consideration to convince any one of the insufficiency of this as a permanent remedy. In the first place, such concessions are never made, and, under the present system, never will be made, until after such a prolonged struggle, that when they come they are always felt to have been wrung from the government, and not to have proceeded from a sense of the justice or expediency of granting them ; they never remove the distrust which is felt of the provincial executive government ; they leave untouched the great evil of the disadvantageous comparison which is constantly before the eyes of the people, when they look at the administration of the imperial government by the King, and that of the provincial government by his representative. They see the former always so far consulting the wishes of his people, as never to keep in his councils persons who have not the confidence of their representatives, while in the administration of their own government they see the mere representative of that sovereign constantly

surrounded by those very individuals of whom, sometimes with reason and perhaps sometimes without, they have become distrustful and jealous; and they very naturally ask the question, why are not our representatives to be paid as much attention to by the King's deputy as the representatives of our fellow subjects in England by the King himself? Astute reasonings may no doubt be framed, and fine distinctions drawn upon the subject; but this is a plain common-sense and practical view of it, out of which, be assured, it will be impossible ultimately to persuade the yeomanry of Upper Canada. You may indeed, by strenuously insisting on the inapplicability of this principle to their situation, drive them to insist on a more extended system of elective institutions. By refusing what no one can deny to be an English principle, the same upon which your lordship and your colleagues were selected to fill the high and responsible situations which you hold in His Majesty's councils, the same by which you at this moment continue to retain those places, you may indeed divert their attention to another direction, and drive them to call for the power of electing their own governor and their own executive; but you never can persuade them to abandon the object of obtaining more influence than they now possess through their representatives in the administration of the executive government of the colony.

I now come to the consideration of the fourth remedy, which consists of nothing more than having the provincial government, as far as regards the internal affairs of the province, conducted by the lieutenant-governor (as representative of the paramount authority of the mother country), with the advice and assistance of the executive council acting as a provincial cabinet, and composed of men possessed of the public confidence, whose opinions and policy would be in harmony with the opinions and policy of the representatives of the people. This, as I have before said, I look upon, not only as an efficient remedy, but as the only efficient one that can be applied to the evils under which the province is at present suffering.

I shall avoid troubling your lordship with any observations upon the construction of the constitutional act, because, not only has the subject already been fully entered into in the report of the select committee of the house of assembly, but I sincerely believe matters to have arrived at that point when it really signifies nothing whether it be or be not *required* by the



charter. The only question worth discussing is, whether it is or is not expedient that the principle should be applied to it; and for this purpose, all that it is necessary to ascertain in the first instance is, that there is nothing in the charter which forbids the application of such a principle. That this is the case, as it has never been denied, and as the principle in its practical application consists in fact merely in the ordinary exercise of the royal prerogative, will, I take it for granted, be readily admitted. The concession of the principle therefore calls for no legislative interference; it involves no sacrifice of any constitutional principle; it involves no sacrifice of any branch of the royal prerogative; it involves no diminution of the paramount authority of the mother country; it produces no such embarrassment to the home government as in the present state of the imperial parliament the attempt to grant an elective legislative council would be almost certain to do. From being an English principle, it would strengthen the attachment of the people to the connection with the mother country, and would place the provincial government at the head of public opinion, and enable it to influence, if not guide, that public opinion, instead of occupying its present invidious position,—of being always in direct opposition to it.

But, in addition to these advantages, which this remedy possesses in an eminent degree over all others that have been suggested, it would be found effectual for the purposes desired. Permit me to re-state those objects: they were, first, that the different branches of the provincial government should be brought to act in harmony with each other; and, secondly, that the people should feel that they had sufficient influence upon their government to secure attention to their rights and respect for their feelings and prejudices. I am of opinion that this principle, if fully and fairly acted upon, would effect both those objects. An executive council constituted upon this principle would, from their situation as confidential advisers of the lieutenant-governor, necessarily have great influence in the house of assembly. Their weight in the country, as well as their confidential situations about the person of the lieutenant-governor, would give them great weight with the legislative council, and they would, of course, from both circumstances possess great weight with the lieutenant-governor; they would generally, if not uniformly, be in one or other house of parliament, and would

there form a centre of union, and, in fact, act as a sort of balance-wheel to the constitution. The measures which they brought forward, as they would necessarily have the previous sanction of the lieutenant-governor, would come recommended, on the one hand by all the weight of executive influence, and on the other by the support of those to whom the people, both from habit and principle, had been accustomed to look with confidence. The people would therefore be predisposed to receive their measures with satisfaction and confidence, as the fruit of the advice of their friends and the legislative council, as recommended by the servants of the crown, whose interests as well as duty it was to recommend nothing but what was safe as well as satisfactory to the public. What it was not deemed wise or prudent to adopt, instead of being suffered to pass heedlessly through the assembly, and left to be thrown out by the legislative council, or negatived by the veto of the lieutenant-governor, would be met in the first instance and resisted ; because every step that such proposal advanced would increase the probability of ultimate embarrassment to the executive council and those whose confidence they enjoyed, who would of course be always the most powerful party in parliament. Such an executive council would necessarily feel a moral as well as political responsibility for the success of their measures. Their permanent connection with the country, as well as a sense of duty and natural desire to retain office, would necessarily insure their utmost exertions, not only to procure harmony but to produce good government. The people, when they saw that the King's representative would not retain men in his councils who had forfeited their confidence, would be the more careful in the exercise of the elective franchise, and far less likely to withdraw their confidence from those in whom they had once found reason to place it. That the adoption of this principle would, without vesting the election of the executive in the people, place in their hands such an indirect influence upon it as would be sufficient to secure attention to their rights, feelings, and prejudices, is sufficiently evident ; because, if such attention were not paid by those in the confidence of the lieutenant-governor, the people would have only to return to the next parliament men who would not give them parliamentary support, and they would necessarily have to resign, and the lieutenant-governor to appoint others who possessed the confidence of the representatives of the people ; A. B. and C.

would go out of office, and D. E. and F. would come in, the lieutenant-governor always retaining the power of calling into action his superintending control with respect to the measures of both the one and the other; and the effect produced upon the interests of the mother country being none other, than that the change would give satisfaction, and, at least, most probably, ensure good government in the management of the internal affairs of the colony.

But it will be said that even under this system collision may arise. The lieutenant-governor may disapprove of the measures recommended by his council, and find it impossible to form an executive council, which could secure parliamentary support upon any other terms than concession, or the executive council may find it impossible to bring the two houses to an understanding upon every measure. To which I reply, that the practical working of the principle would be sure to postpone such collision to the latest possible period. That the intermediate steps of a change of the executive council, and of appealing to the people by a dissolution, would at all events give the home government the great advantage of not itself coming in collision with the people till the last moment, and of ascertaining the exact point where the question of concession would become one merely of expediency. In addition to which I would remark, that this objection is equally applicable to the practical working of the principle in this country; with this great difference, that, supposing the people of England to be wholly unreasonable in their demands, the crown has, in point of fact, no means of resistance; whereas, in the case of a colony there is, as a last resort, the application of that power, which, independent of the influence which a knowledge of the possession of it would necessarily give to the representative of the home government, in the course of the previous contest, will always rest in the hands of the parent state to be exercised when all other means fail; so, that were the principle a mere experiment, to be now tried for the first time, a colony would be a safer subject for such experiment than the mother country. With respect to collision between the two houses, such, under the operation of this principle, is surely not more likely to happen in the working of the Upper Canada constitution than in that of the mother country; and the utmost that can be done by the most perfect system is to guard against the probability, not the possibility of difficulties.



Such collision might happen even between two elective bodies, and in point of fact does happen, not only occasionally but every day, under the constitution as at present acted upon ; and at the worst such a case would be open to be disposed of in the same way as a similar one in England, with this difference only, that the appointment of a batch of new legislative councillors is not subject to the same difficulty that the creation of new peerages is, as the seats of legislative councillors are not hereditary ; and, finally, the ultimate resource of making the legislative council elective, if indeed it be still found necessary to do so, will be as open to be taken as ever.

It is objected, that the concession of this principle is inconsistent with the preservation of the paramount authority of the mother country. With respect to this I would remark, that it does not appear to be more so than the concession of the power of legislation. In the one case you vest the power of legislating on the internal affairs of the colony in a local parliament, with the consent of the King's representative. In the other, you leave the executive power in the hands of the King's representative, requiring only that it should be exercised with the advice of persons, valued by himself, but possessed of weight and influence with the people whose local affairs he is deputed to administer.

It is objected, that it would interfere with the patronage of the lieutenant-governor. This also appears to me to be an error. The power of appointment to office would remain in the lieutenant-governor as at present ; the right of advising is all that is claimed for the executive council. If such be considered an interference, it is such as can be exercised alone to prevent mischief ; but suppose that it actually deprived the lieutenant-governor of every vestige of patronage, the simple question is, is the patronage in the hands of the lieutenant-governor the great object for which England desires to retain Upper Canada ? If this be indeed the chief or only object, let it be candidly avowed. I will only remark, that the people have been heretofore induced to believe that the home government were actuated by other and loftier motives.

It is objected, that it would lessen the responsibility of the lieutenant-governor to the home government. This is a mistake ; every act of the provincial government would be the act of the lieutenant-governor, requiring his full consent quite as

much as at present. How would he be less responsible then to the King and parliament of the empire, because he acted upon the advice of those who had the confidence of the people? The lieutenant-governor is the connecting link between the government of the two countries. You cannot make him responsible to the people of the province; such would be wholly inconsistent with the respect due to the sovereign whom he represents, and fatal to the connection between the two countries. The proper place for his responsibility to rest is in England. But you must give the people such an influence upon their executive government as will prevent the constant jealousy to which it is at present exposed. You can do so only either by permitting a direct influence by vesting the election of the executive in the hands of the people, which I look upon as inexpedient and unsafe, or you must give them that indirect influence which they see constantly exercised by their fellow subjects through their representatives in this country.

With respect to the objections, that the application of this principle would lead to the executive council falling into the hands of a few metropolitan families, I would remark, that it seems much less likely to have that effect than the present system, and that if it had it would be an evil for which the people would have to blame themselves only, and therefore not one which could be attributed to the home government, or their representative the lieutenant-governor; and, above all, one the remedy for which would be in their own hands. The same may be said as to the rather inconsistent objections, that it would lead to too many changes, and that there are not persons enough in the province qualified to fill the office of executive councillor.

But it is pretended that the people of Upper Canada are opposed to having this indirect influence upon the executive in the hands of their representatives. Premising that the real value and importance of the principle itself cannot depend either upon what the people do really think upon the subject, or what they may by violence and misrepresentation be persuaded to afford reasons for supposing that they think, I proceed to remark that the proposition appears absurd on the face of it; it is like an attempt to make one believe that a thirsty man has an objection to receive water, or a hungry man food. But what is the fact? as I have already stated, this is no new principle,

brought forward for the first time on the present occasion ; it has been before the people more or less prominently since 1820. In 1828 or 1829 it was introduced into the address in reply to the speech from the throne, and continued to be so, except during the parliament of 1830, in which the administration had a majority, and of course when the executive are in the majority, is not the time for the practical application of the principle. But in 1835 it was made the subject of solemn appeal to the home government, in an address to the King, passed by a majority of twenty-one votes, in which His Majesty was informed, that until the principle was acted upon it could not be expected that the administration would give satisfaction, or that there would be any real or permanent harmony between the government and the representatives of the people. The addresses presented to Sir Francis Head since the prorogation of the last provincial parliament are depended upon as showing that the people are opposed to the concession of this principle. If such really be the opinion of the people, it is, to say the least of it, somewhat remarkable, that no expression of that opinion took place after the close of the session of 1835, although in the very address to which I have referred, the assembly intimated their intention of withholding the supplies if their voice was not heard ; that even after the resignation of the late executive council, a resolution declaring it to be the opinion of the house of assembly, "that the appointment of a *responsible* executive council, to advise the lieutenant-governor on the affairs of the province, was one of the most happy and wise features in the constitution, and essential in our form of government," was adopted with but two dissenting voices out of a house of fifty-five members, and that it was not until some time afterwards that exertions began to be made to excite even the tory party against the late council, and all who thought with them. This is not the first time that a colonial lieutenant-governor has had resort to adulatory addresses, in order to give a colouring to his proceedings in reporting them to the home government. The ease with which such addresses can be procured is either not known or never considered. The addresses to Sir Peregrine Maitland in 1827 or 1828 were not less violent in their language against the majority of the then assembly than have been both the addresses and replies on the present occasion, and yet the general election which followed left the executive government in



a minority as small, if not smaller, than in the preceding parliament.

But should Sir Francis Head by violence and intimidation unhappily succeed in procuring a majority in the next provincial parliament, do not suppose, my lord, that there will be the less necessity for the application of this principle. New difficulties will daily spring up, and when once the delusion under which the popular mind has been acted upon has passed away, it will return with double pertinacity, not, I fear, merely to the principle now asked for, but to changes of a more extensive and organic character. Time, I am persuaded, will convince your lordship of this. I tremble lest that conviction should arrive too late to prevent the consequences which I deprecate.

To conclude, my lord, I most earnestly recommend, not only as *expedient*, but *necessary*, for the preservation of the connection between this country and Upper Canada, first, that His Majesty's imperial government should at once adopt the final determination, that the provincial government, as far as respects the internal affairs of the province, should be conducted by the lieutenant-governor; with the advice and assistance of an executive council, acting as a provincial cabinet; and that the same principle on which His Majesty's cabinet in this country is composed, should be applied and acted upon in the formation, continuance in office, and removal of such local provincial cabinet. Secondly, that this resolution of the home government should be inserted in the shape of a specific clause in the general royal instructions for the government of the province, and formally communicated to both houses of the provincial parliament; and thirdly, that Sir Francis Head should be recalled, and a successor appointed who shall have been practically acquainted with the working of the machinery of a free representative government.

I have now stated to your lordship briefly my views and opinions, and I am ready to afford any further explanations that your lordship may desire. I may of course be mistaken in both, but I assure your lordship that I am in my own mind most firmly persuaded, that unless the course above recommended be promptly adopted and pursued, it will be wholly out of the power of the mother country to preserve the affections of the Upper Canadian people, although she may, of

course, for a time continue to retain them in subjection to her authority.

I have, &c.

(Signed)

ROBERT BALDWIN.

*Right Hon. Lord Glenelg.*

&c.

&c.

&c.

MY LORD, 4, *Trinity Court, Charing Cross*, 16th July, 1836.

IN the letter which I had the honour of addressing to your lordship on Tuesday last, I frankly explained my own views and opinions, and informed your lordship of the extent to which I was convinced they were concurred in by the people of Upper Canada. All, however, that was asked in the representation from the late executive council to the lieutenant-governor was, that the council should be consulted on the affairs of the province, or the public made aware generally that they were not uniformly consulted upon them. I feel it a duty to call your lordship's attention to this circumstance, because I cannot state that all my late colleagues concur to the full extent in my views and opinions; and it would be uncandid towards you, and might be unjust to them, to permit your lordship to suppose that *they* went further than the representation itself set forth; and your lordship will perhaps permit me to take this opportunity, the last which will most probably present itself, of doing those gentlemen the justice of stating to your lordship, that from all that passed during the short period of my official connection with them, and for some of them certainly I entertained no political predilections which could have misled my judgment in this particular, I am fully convinced that in making the representation to Sir Francis Head, they were actuated by the most earnest desire to afford their best assistance in preventing embarrassment, and insuring to him a prosperous and satisfactory administration of the government.

I have, &c.

(Signed)

ROBERT BALDWIN.

*Right Hon. Lord Glenelg.*

&c.

&c.

&c.

SIR,

*Downing-street*, 30th July, 1836.

I AM directed by Lord Glenelg to acknowledge the receipt

of your letter of the 16th instant, relative to certain recent proceedings in the province of Upper Canada; and, in reply, I am to inform you, that a copy of your communication will be transmitted to Sir Francis Head, for such observations as he may have it in his power to offer on the subject referred to by you.

I have, &c.

*R. Baldwin, Esq.*

(Signed)

GEO. GREY.

MY LORD,      4, *Trinity Court, Charing Cross, 28th July, 1836.*

CONSIDERING the present state of Upper Canada, and the deep interest which I necessarily have in the fate of that province, your lordship will not, I trust, consider as an intrusion, a request to know whether His Majesty's government have come to any decision on the points suggested by me as of preliminary importance, in my letter to Mr. Hume of the 14th ult., and which that gentleman immediately transmitted to the colonial office.

His Majesty's decision on the bills for the improvement of the roads, lighthouses, and the final settlement of the war loss question, upon the terms proposed by the home government itself, would seem to require no very protracted consideration: their importance is unquestioned.

If, therefore, His Majesty's government have come to a decision on these points, and your lordship feels at liberty to communicate it, I shall feel obliged by being informed of the result.

I have, &c.

(Signed)

ROBERT BALDWIN.

*Right Hon. Lord Glenelg.*

&c.      &c.      &c.

SIR,

*Downing-street, 4th August, 1836.*

I AM directed by Lord Glenelg to acknowledge the receipt of your letter of the 28th ultimo, and to return to you the following answer thereto:

His lordship is not insensible to the deep interest which you must unavoidably take in whatever relates to the administration of the government of Upper Canada, and is anxious to manifest towards you personally the respect and courtesy which



are due to you; but, as you are invested with no public or official character, his lordship cannot, without departing from a settled and necessary rule of official correspondence, enter into explanations with you as to the course of proceeding which it may be the intention of His Majesty's government to pursue in reference to the conduct of the affairs of that province. Lord Glenelg must, therefore, refer you to his published despatch to Sir F. Head, as explanatory of the general principles to which His Majesty's government are pledged, and to which it is their fixed purpose to adhere in their administration of the government of Upper Canada.

I have, &c.

*Robert Baldwin, Esq.*

(Signed)

GEO. GREY.

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MY LORD,      4, *Trinity Court, Charing Cross*, 4th Aug. 1836.

I TAKE the liberty of inclosing to your lordship the printed copy of an address from the reform alliance society, of the 14th May last, which, as expressing the sentiments of an influential body, and explaining their views in answer to the speech made by Sir Francis Head on proroguing parliament, I deem it proper to submit for your lordship's information.

I have, &c.

(Signed)

ROBERT BALDWIN.

*Right Hon. Lord Glenelg.*

&c. &c. &c.

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SIR,

*Downing-street*, 12th August, 1836.

I AM directed by Lord Glenelg to acknowledge the receipt of your letter of the 4th instant, inclosing the printed copy of an address from the "reform alliance society" of Upper Canada.

I have, &c.

*R. Baldwin, Esq.*

(Signed)

GEO. GREY.

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MY LORD,      4, *Trinity Court, Charing Cross*, 12th Aug. 1836.

I HAVE the honour to acknowledge the receipt of a letter from Sir George Grey of the 4th instant, in reply to my letter to your lordship of the 28th ultimo.

Sir George Grey, while he informs me of your lordship's declining to afford me the information requested, expresses your

lordship's desire to manifest towards me, personally, respect and courtesy. While acknowledging your lordship's politeness in this particular, you will excuse me for expressing my full consciousness of respect and courtesy, being both, as your lordship admits, my due ; and permit me to assure you, that I should never have done your lordship the injustice of assuming that any course which you might deem it your duty to take, could have been meant to show want of personal respect or courtesy, my right to which I knew that I had never forfeited.

Nothing, as I have before assured your lordship, could have induced me to trespass on your attention, but a sense of duty arising from what I believed, and still believe, to be a peculiarly dangerous crisis in the political affairs of Upper Canada ; and your lordship will, I am sure, give me credit for being free from any desire to violate any settled or necessary rule of official correspondence.

Since I last had the honour of addressing your lordship, it appears, by the accounts in the public papers, that Sir Francis Head has succeeded in procuring a majority of members ready to support him and his present council in the new parliament. I candidly admit to your lordship, that I did not believe that his Excellency, with all his official influence, and all the violence to which he has resorted, would have been able to have accomplished this.

The event of these elections does not, however, in the least lessen the necessity for the adoption of the principle contended for in the working the machinery of the provincial government, though it will of course postpone the period for again calling for its practical application. I however once more take the liberty of entreating your lordship not to suffer yourself to be led away with the supposition that the people of Upper Canada are opposed to the principle ; they *may* be in favour of Sir Francis Head and his present executive council, but to suppose them opposed to the principle in itself, involves, if not an absurdity, at least a conclusion so inconsistent with the natural impulse of the human mind as to render the adoption of such supposition a certain foundation of future mischief. The Upper Canadians see this principle in full and beneficial operation in the mother country, and they will not be satisfied with being told that, though very good for their fellow subjects in England, it is very unfit for them. The fact of the government having

appealed to the people by a dissolution, and awaited the result of that appeal, is, it is true, of itself, as far as it goes, a practical application of the principle contended for; but I cannot omit this opportunity of once again urging the expediency of your lordship's not losing the present opportunity of confirming the attachment of the people to the mother country, by an open and direct avowal that the principle, thus already so far applied, is in future to be fully carried out and uniformly acted upon. Such a course would, I firmly believe, conciliate affection and confirm confidence, both which your lordship may be assured are most necessary to the preservation of the connection between the two countries. Let the present opportunity pass, and one so favourable may, most probably will, never again occur.

I cannot close without adverting to a report and address from the legislative council of the 19th of April last, which I have only seen within these few days, though no doubt it has been some time before your lordship. I do so, because without at present adopting all its conclusions, or feeling myself competent to pronounce upon the accuracy of its statements, it appears to me to contain a forcible illustration of the utter inefficiency of the system heretofore adopted in conducting the provincial government of Upper Canada; and your lordship will see, that the want of executive servants to conduct the legislative business of the government through parliament is, in the last paragraph but one, distinctly, though delicately, pointed at.

I shall trouble your lordship no further; I have now done all that was in my power to avert the consequences which I apprehend. My opinions have been avowed with equal frankness to the representative of the King in the province and to His Majesty's government in this country, and the consequences, which I anticipate from the adoption of a different line of policy from that which I have respectfully recommended, explicitly pointed out to both. Over the result I have of course no control, although I shall necessarily be involved in its consequences. I feel however that I have now discharged my duty; and your lordship will, I am sure, be my witness that I have omitted nothing, which was in my power, that could tend to impress His Majesty's government with the importance which I attached to the principle, and the necessity which I conceived to exist for its prompt and



avowed application as a permanent principle of government to the provincial constitution.

I have, &c.

(Signed) ROBERT BALDWIN.

*Right Hon. Lord Glenelg.*

&c.      &c.      &c.

MY LORD,      4, *Trinity-court, Charing-cross*, 12th August, 1836.

I HAVE been requested, by the editor of the *Correspondent and Advocate* newspaper of Toronto, to submit the inclosed deposition to your lordship.

I subjoin an extract from Mr. O'Grady's letter, in which his motives are explained.

Your lordship will be kind enough to consider this as proceeding wholly from that gentleman. As far as I am myself concerned, I have already, in my interview with Lord John Russell, taken the only kind of notice that I shall condescend to do of the rumours referred to.

I have, &c.

(Signed) ROBERT BALDWIN.

*Right Hon. Lord Glenelg.*

&c.      &c.      &c.

*Extract referred to in the foregoing letter.*

"It having been currently reported here since your departure for England, that his Excellency Sir F. B. Head has represented to the Colonial Office that Mr. Rolph and yourself are the authors of the rejoinder to his Excellency's answer to the address of the inhabitants of this city, lately presented to him, I deem it a duty I owe to you to inclose the attestation of J. H. Price, Esq., before his worship the Mayor, and certified by his Excellency, from which it will appear what little credit should be given to such a representation. For the sake of truth and justice, I have to request you will submit it to the consideration of His Majesty's Secretary of State for the colonies. That document (the rejoinder) having appeared in the *correspondent and advocate* newspaper, it becomes more particularly my duty to correct any misrepresentation that might have been put into circulation regarding its authorship, to the prejudice of others.

"It has also been stated in the demi-official press of this city (the *Toronto Courier*), that certain members of the late

executive council, including Messrs. Markland, Dunn, and yourself, together with W. W. Baldwin, Esq., and Dr. O'Grady, were in the habit of holding midnight cabals, to embarrass the local government. This you know is an unqualified falsehood. I have no knowledge of any such cabals; and you will admit that my acquaintance with you for some four or five years past could not warrant such an intimacy between you and me. We have scarcely interchanged the ordinary courtesies of life, and still we are falsely accused of caballing together to upset Sir F. B. Head's government!!”

I do hereby certify and attest, that I was present in Dr. O'Grady's house on the twenty-seventh day of March last, being the day previous to the publication of the rejoinder to Sir Francis Bond Head's answer to the address of the citizens of Toronto, and that I have assisted in copying the same from the original, which he was then writing; and that I have sufficient reason to believe that Dr. O'Grady was the sole author of the same, unaided by any person or persons whatever, except a few suggestions made by James Leslie, Esquire, and myself. I do further certify and attest, that there was no opportunity of submitting that document (either the original, as written by Dr. O'Grady, or the copy) to the revision of any other person or persons, than of those by whom it was signed previous to its being sent to the Correspondent and Advocate office to be printed, and that the printed copy accorded with the original without any alteration or change.

J. H. PRICE,

*Toronto, 9th May, 1836.*

Attorney at Law.

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I, Thomas David Morrison, Esquire, mayor of the city of Toronto, do hereby certify, that James Harvy Price, of the city of Toronto, Esquire, came before me this ninth day of May, in the year of our Lord one thousand eight hundred and thirty-six, and acknowledged to me that the certificate written on the other side hereof, and to which he has subscribed his name, was and is true; and that the same is in his own hand-writing. In witness whereof I have hereto subscribed my name, and caused the seal of the said city to be hereto affixed.

T. D. MORRISON, Mayor.

H. T. M'CORD, Chamberlain.

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*By His Excellency Sir Francis Bond Head, Knight Commander of the Royal Hanoverian Guelphic Order, Knight of the Prussian Order of Merit, Lieutenant-Governor of Upper Canada, &c. &c.*

THESE are to certify, that Thomas D. Morrison, Esquire, whose name is subscribed to the foregoing certificate, is Mayor of Toronto, duly elected by the common council of the said city for the year 1836.

Given under my hand and office-seal at Toronto, this 10th day of May, 1836, in the 6th year of His Majesty's reign.

By Command,

F. B. HEAD.

J. JOSEPH.

SIR,

*Downing-street, 17th August, 1836.*

I AM directed by Lord Glenelg to acknowledge the receipt of your letter of the 12th instant, inclosing a deposition made by the editor of the Correspondent and Advocate newspaper of Toronto, with reference to an article published in that paper as a rejoinder to Sir F. Head's answer to the address of the citizens of Toronto. In reply, I have to inform you, that until the receipt of your letter Lord Glenelg had never been informed that the authorship of the article in question had been attributed to you; and that certainly no assertion of that nature had been ever made by Sir F. Head.

I have, &c.

*R. Baldwin, Esquire.*

(Signed)

GEORGE GREY.

*No. 17.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 24th August, 1836.*

I HAVE the honour to inclose for your information a copy of a return which has been presented to the house of commons, in pursuance of an address of that house to His Majesty, adopted on the motion of Mr. Hume, M.P.

I am aware, from a comparison of dates, that at the time when you received the address of the house of assembly of Upper Canada, a copy of which is contained in the inclosed parliamentary paper, you could not have been aware of the proceedings which had taken place in the month of February last in the house of commons relative to orange lodges, and that you could not at that time have received my despatch of the 27th February, transmitting to you a copy of the address to



the King from the house of commons on this subject, and of His Majesty's answer to that address.

On the recent occasion of some observations reflecting on your conduct, with reference to this question being made in the house of commons, Sir G. Grey felt it his duty distinctly to state this fact to the house, as materially affecting any opinion which might be formed of the policy or propriety of the terms of your answer to the address of the assembly of Upper Canada.

I need scarcely observe, that there is nothing which His Majesty's government do more deeply regret, than that, while their unremitting endeavours are directed in this country, and especially in Ireland, to check the evils which have been engendered by religious differences, and to put a stop to the irritation and violence which party processions are calculated to produce, any semblance of indifference to the same important object should be manifested by His Majesty's representatives in other parts of his dominions. I am very far from assuming that you do not cordially enter into the views of His Majesty's government on this subject; and I should be doing you a great injustice if I could admit a question as to your zealous co-operation with them in discountenancing those passions and animosities which, especially when connected with religious differences, are the fruitful sources of innumerable evils, and throw the greatest obstacles in the way of the welfare and prosperity of any country.

I have however felt it incumbent on me to call your attention to this return, in the full confidence that it is your purpose to administer the government which His Majesty has confided to you with the strictest impartiality, and with the single object of advancing the real interests of every class of His Majesty's subjects in the province. I have, &c.

(Signed)

GLENELG.

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*No. 18.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 6th September, 1836.*

WITH reference to that part of my despatch of the 25th July, No. 73, which refers to the reservation of the money-bills passed by the legislature of Upper Canada during their last session, I have the honour to inform you that the circumstances which rendered that measure expedient, having since undergone an entire change, I have not hesitated to advise His

Majesty now to confirm those bills. His Majesty having been graciously pleased to approve that advice, I transmit to you herewith an order of His Majesty in council for carrying it into effect.

I need hardly observe, that, in tendering this advice to His Majesty, I have by no means departed from the view expressed in my despatch of the 25th July, as to the propriety of your conduct in reserving these bills ; but aware of the inconvenience which could not but result from a prolonged suspension of them, it has been with much satisfaction that I have felt myself relieved from the necessity of a further perseverance in that measure.

I have, &c.

(Signed)

GLENELG.

*No. 19.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 8th September, 1836.*

I HAVE to acknowledge the receipt of your despatches of the 8th July, No. 56, reporting the result of the recent elections for the new house of general assembly of Upper Canada ; of the 16th July, No. 57, on the subject of the mission of Mr. Duncombe, a member of that house, to this country ; and of the 23rd July, No. 60, on the subject of the proceedings which you propose to adopt on the meeting of the new assembly. My motives for acknowledging and answering these despatches together will appear in the sequel.

His Majesty commands me to signify to you the satisfaction with which he learns that the appeal made by you, in His Majesty's name, to his faithful subjects in Upper Canada has been answered by them in such a manner as fully to justify the dissolution of the late general assembly. The King is pleased to acknowledge, with marked approbation, the foresight, energy, and moral courage by which your conduct on this occasion has been distinguished.

It is peculiarly gratifying to me to be the channel of conveying to you this high and honourable testimony of His Majesty's favourable acceptance of your services.

In your despatch of the 8th of July you renew, even with increased earnestness, your demand for advancement to the dignity of a baronet, and express very strongly an opinion, the correctness of which I have no reason to distrust, that a com-

pliance with your request would greatly facilitate the future conduct of your government. After the unreserved acknowledgment which the King has been pleased to make of your claims on his approbation, it is almost superfluous to say that His Majesty's confidential servants have not approached the consideration of this subject without the strongest inclination to gratify your wishes. They have felt it to be a question demanding grave deliberation, because such an accession of rank, conferred at the present moment, would carry with it the most public and emphatic sanction which it is in His Majesty's power to bestow, upon the measures which have distinguished your administration of the government of Upper Canada.

On referring to the despatches which I have addressed to you since your arrival in the province, you will perceive that it has been my good fortune to have been able to approve every considerable measure which you have adopted and reported to me. Some occasional and minor differences of opinion may, indeed, have subsisted between us, but not more important or numerous than such as must, in the conduct of public affairs, occur between those who claim for themselves, and respect in each other, the free exercise of an independent judgment; I am therefore happy to think that no reason for withholding or delaying the grant of a baronetage, could be derived from a consideration of the publicity, which would thus be given to His Majesty's favourable estimate of your past services.

But to the immediate indulgence of the wish to confer on you this dignity, an unexpected impediment has very recently arisen. On the day before the prorogation of parliament, a petition from Mr. Duncombe was presented to the house of commons, in which that gentleman, claiming for himself the credit due to him as a member of the assembly of Upper Canada, and pledging his personal honour to the truth of his statements, made various allegations, impugning your character and conduct in respect to the recent elections. Your despatch of the 16th July had unfortunately not then reached me; but Sir George Grey, in his place in the house, asserted in the strongest terms his disbelief of those accusations; and his opinion, that to prefer them in this country, where they could not be subjected to any inquiry, rather than in the province itself, where their truth might have been immediately investigated, was an act of injustice



towards you. He pledged himself, however, that you should receive a copy of the petition, for such explanation as you might be able and disposed to offer. In fulfilment of that pledge a copy of that petition accompanies this despatch.

I adopt the opinions thus expressed by Sir George Grey. His Majesty's ministers are convinced that it will be in your power to repel every part of Mr. Duncombe's charges. This was, indeed, their persuasion, even before the arrival of your despatch of the 16th July, which, however, although of necessity only general in its terms, is abundantly calculated to set at rest every anxiety on the subject.

If then it were necessary to refer only to personal conviction, there could be no reason for any delay in granting what is so anxiously sought. But this is an occasion on which it is not permitted to public men to substitute the persuasion, however confident, of their own minds, for proofs which would be equally satisfactory to others. A charge, vague and general in its nature, or proceeding from an anonymous or unworthy antagonist, might have been passed over without notice; but this is an accusation, specific as well as grave, and preferred before the house of commons by a gentleman who has himself the honour of a seat in the provincial assembly. Such imputations, advanced on such authority, in such a place, are entitled at least to that degree of respect which shall secure for them an attentive hearing, and a patient inquiry.

It remains, therefore, that you should furnish me with your answer to Mr. Duncombe's petition; and I have His Majesty's permission to assure you, that if, as I cannot doubt, that answer shall prove complete and satisfactory, the rank of baronet will be immediately conferred upon you.

Having acknowledged the receipt of your despatch of the 23rd of July, No. 60, in which you request authority to retract the assurance given by His Majesty, respecting the future appropriation of the revenues of the province, I cannot close this communication without adverting to the general policy, which, under the present aspect of affairs in Upper Canada, His Majesty expects and requires you to pursue. As our official intercourse is distinguished on your side by a becoming frankness in the expression of your opinions, so I am persuaded that I shall best consult your wishes, and manifest my respect for your character by addressing you with a corresponding freedom from reserve.

When you were about to leave this country, I addressed to you instructions for your guidance on every question which was at that period in debate with the house of assembly of Upper Canada. In the selection of topics I was guided by the occurrences of that particular period. But the principles on which my instructions were founded, were of no occasional or transitory nature, nor were they adopted only to meet the exigencies of the moment; they were, on the contrary, the result of long and earnest reflection on the state of public affairs, not merely in the British empire, but throughout the civilized world. It appeared to my colleagues and to myself, that in a firm and consistent adherence to those principles, would be found the best bond of union between the transatlantic and the European dominions of the crown.

The experience of the last few months has not shaken this conviction, but has rather given to it additional strength. If I stood in need of any authority to prove the wisdom of the policy dictated by your original instructions, I should refer to the frequent mention of them in your despatches as having carried you through the conflict in which you were engaged. By proving that the British government had no narrow or selfish ends to pursue in British North America; that they were resolved at once to maintain the existing constitution, and to remedy every real grievance; and that it was their sole aim that the province should prosper in the enjoyment of all the franchises enjoyed by His Majesty's subjects or their representatives in this kingdom, one most essential object has been gained; the well-affected have been detached from a dangerous alliance with the opponents of order and tranquillity. The recent appeal to the people has been made in the name of a Sovereign whose claims to the gratitude and confidence of his subjects had been enhanced by the recent avowal of his gracious and enlightened purposes. The constituent bodies have accordingly rallied round the representative of their King.

The temper of the last house of assembly, and the manner in which they received His Majesty's gracious answer to their remonstrances afford conclusive proof, that by dissolving them you overcame an otherwise insuperable obstacle, to the success of the measures directed by your instructions. Your report of the composition of the new house justifies the sanguine hope, that important facilities have now been obtained for the pro-

secution of those measures ; thus far an invaluable service has been rendered. But on the use to be hereafter made of the powers which you have thus acquired it will depend, whether the result is upon the whole a subject of congratulation or of regret.

You propose that the influence and authority of the government in the new assembly, should be exercised in the retracting of a pledge solemnly given by the King to the province. I must answer, that there is no danger which ought not to be encountered, nor any inconvenience which should not be endured, in order to avoid the well-founded reproach of a breach of faith ; above all on such a subject, and on such an occasion. By the engagements into which the King has entered His Majesty will abide, not indeed indifferent to the possible issues of that decision, but prepared for any consequence inseparable from the observance of his royal word.

It would be unjust to attribute to you any design to recommend a violation of His Majesty's promise. The advice which you offer you justify on the ground that the conduct of the late house of assembly, had too clearly proved the contemplated arrangement to be neither safe nor prudent. Your proposition, therefore, in effect is, that a pledge entered into with a view to the public good, ought not to be maintained after more recent experience has proved that the public good would not really be promoted by an adherence to it ; and this you assume to be the case in the present instance. On this point, however, I must beg to differ from you. The assumption on which your argument proceeds, identifies in character the last and the present houses of assembly. It ascribes to the new representatives of the people those designs and principles which led first to the dissolution, and then to the rejection of their predecessors. It plainly asserts, or necessarily involves the assertion, that the representatives of the people of Upper Canada, from whatever class of society they may be chosen, are unworthy to be trusted with the appropriation of the revenues of the province, and will be led on by every concession to new encroachments and usurpations. If compelled to reason on this basis, I should be irresistibly urged to consequences far exceeding those which you have stated, or perhaps contemplate. But I entertain a very different opinion. For the support of the constitution in Upper Canada I would, with confidence, appeal to the good



sense, the loyalty, and the public spirit of the inhabitants at large.

At this distance it is more easy, perhaps, than on the scene of action itself, to look dispassionately at the triumph of the moment, and to estimate with a sober and cautious foresight the ultimate results of what is now passing. Without digressing into topics on which I am unwilling without necessity to enter, I would only express my belief, that if your present success be used for the introduction of what you describe as "acts of a stern and decisive nature," we shall throw away the fruits of the victory which you have gained, cement again that alliance which has for the time been broken up, and provoke a second reaction, to which I know not how any effectual resistance could be presented. On the other hand, by a firm adherence to the plighted faith of the crown, by a frank redress of every real grievance, by a cordial concession of every just demand, and by a resolute opposition to demands of a revolutionary character, we shall, I trust, secure every object which is of any real moment; and, even in the event of failure, shall stand absolved before God and our country from the reproach of having brought upon ourselves public disasters by the dereliction of any duty, or the abandonment of any principle.

In a word, His Majesty commands me to state, that with regard to Canadian policy, his course is irrevocably taken by the instructions which you have received; that he will fulfil every promise contained in them faithfully and completely; and that a zealous and cordial co-operation on your part, in prosecution of the system of policy thus solemnly announced, is the condition upon which the administration of the province can be continued in your hands.

I have, &c.

(Signed)

GLENELG.

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*No. 20.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 12th September, 1836.*

WITH reference to my despatch of the 8th instant, I have the honour to inclose herewith, for your information, a copy of the correspondence which has passed between Dr. Duncombe and this department, on the subject of the representations relative to the recent elections in Upper Canada, with which he is said to have been charged. I also inclose a copy of a letter from

Mr. Hume to Sir G. Grey, introducing Dr. Duncombe, and of Sir G. Grey's answer.

In his letter of the 23rd ultimo, Dr. Duncombe, as you will perceive, proposed to delay for a few days his communication to me, in order that he might receive some further intelligence on the subject, of which he was in expectation. I have not since received his promised statement, but if it should hereafter reach me I shall not fail to take the earliest opportunity of furnishing you with a copy of it.

I have, &c.

(Signed)

GLENELG.

MY DEAR SIR,

*Bryanston Square, 19th August, 1836.*

ALLOW me to introduce the bearer, Dr. Duncombe, member of the new house of assembly of Upper Canada, come to England expressly at the request of the reformers of Upper Canada, to state to Lord Glenelg circumstances, connected with the elections in that province, very important to be made known to the colonial office here; and I request you will give him an opportunity of stating to his lordship the important details he has been commissioned to make known to His Majesty's government here.

I shall present a petition to the house of commons this day at four o'clock against the conduct of Sir F. Head, and Dr. Duncombe will show you a copy, that you may be acquainted with the facts alleged in that petition.

I remain, &c.

*Sir George Grey, Bart. M.P.*

(Signed) JOSEPH HUME.

&c.

&c.

&c.

DEAR SIR,

*Downing-street, 20th August, 1836.*

WITH reference to your note of the 19th instant, which I have communicated to Lord Glenelg, I am directed to inform you that a copy of the petition to which you refer, and which has been subsequently presented by you to the house of commons, will be forwarded by the earliest opportunity to Sir Francis Head, in order to enable him to make such observations as he thinks necessary for the vindication of his character from the charges alleged against him in the petition. Lord Glenelg considers that obvious inconvenience, and perhaps injustice, might arise if he were to receive from Dr. Duncombe

verbal statements in corroboration of the allegations contained in the petition, the substance of which Lord Glenelg might be unable correctly to transmit to Sir F. Head; but if his lordship is right in inferring from your note, that Dr. Duncombe is anxious to make known to His Majesty's government some important facts relative to the recent elections in Upper Canada, in addition to those contained in the petition, and tending to impeach the conduct of Sir F. Head, he requests that those statements may be addressed to him in writing, in order that they may be forwarded Sir F. Head for his explanation, together with the copy of the petition.

I have, &c.

*Joseph Hume, Esq., M.P.*

(Signed)

GEO. GREY.

&c. &c. &c.

SIR,

*Downing-street, 20th August, 1836.*

I HAVE the honour, by the directions of Lord Glenelg, of inclosing for your information the copy of a letter addressed by me to Mr. Hume, and in answer to a letter from him, in which he informed Lord Glenelg that you had come to England expressly to state to his lordship circumstances of importance connected with the recent elections in Upper Canada.

I am directed by Lord Glenelg to request that, should it be your wish to make any communication to him on this subject, you would do him the favour of addressing it to him in writing; and I am further to request, that any such communication may be placed in his lordship's hands as early as possible, with the view to its being transmitted by the first opportunity to Sir F. Head for such explanations as he may feel it his duty to offer.

I have, &c.

*Dr. Duncombe.*

(Signed)

GEO. GREY.

&c. &c. &c.

*3, Northumberland-court, Charing-cross,*

SIR,

*23rd August, 1836.*

I HAVE the honour to acknowledge the receipt of your favour of 20th instant, conveying to me Lord Glenelg's request that I should communicate in writing any information respecting the affairs of Canada that I might wish to lay before his lordship.



I have deferred making the statements I am desirous of giving his lordship on account of my daily expecting the arrival of a greater number of facts, and more positive evidence of those already submitted in my petition.

Should these not arrive in three or four days, I shall without further delay do myself the honour of submitting to his lordship a statement of the facts now in my possession, and not contained in the petition.

I have, &c.

*Sir George Grey,* (Signed) CHARLES DUNCOMBE.  
*Downing-street.*

SIR,

*Downing-street, 1st September, 1836.*

I AM directed by Lord Glenelg to acknowledge the receipt of your memorial respecting the refusal to issue to you a patent in fee simple for the land held by you on lease from the late Captain Brant; and I am to observe, from the various documents to which this memorial refers as inclosures, were not contained in it, Lord Glenelg would be happy to receive them at your earliest convenience.

I have, &c.

*Charles Duncombe, Esq.* (Signed) JAMES STEPHEN.

*3, Northumberland-court, Charing-cross.*

SIR,

*3rd September, 1836.*

I HAVE the honour to acknowledge the receipt of your favour of the 1st inst., and herewith inclose the papers referred to in my memorial to Lord Glenelg of the 31st ultimo. I am very desirous of seeing his lordship, that I may explain some circumstances connected with this matter that it is quite impossible to communicate by letter. I shall anxiously await his lordship's pleasure.

I have, &c.

*Jas. Stephen, Esq.* (Signed) CHARLES DUNCOMBE.

SIR,

*Downing-street, 5th September, 1836.*

I HAVE the honour to acknowledge your note of the 3rd inst., expressing your anxiety to see Lord Glenelg in order to make some communications to his lordship which you feel yourself precluded from transmitting by letter. In reply, I am to inform

you, that in consequence of his lordship's absence from town it has not been in my power to lay your note before him.

I have, &c.

*Charles Duncombe, Esq.*

(Signed)

JAS. STEPHEN.

&c. &c. &c.

3, *Northumberland-court, Charing-cross,*

SIR,

5th September, 1836.

NOT having received any answer to my note of the 3rd instant to Mr. Stephen, expressing my anxious desire to see your lordship upon my *private* business, I must beg your lordship's indulgence while I repeat my wish, and give this further explanation of the cause of my urgency. I have a private letter to myself upon this subject, containing some important facts, worthy your lordship's consideration, which, although I might without impropriety show it to your lordship, yet, should I give it publicity, I have good reason to fear that the violent arbitrary measures of the executive government of the colony *would* be severely visited upon the *author*, who is most devotedly your lordship's friend, and whom I would not injure to secure the success of my application.

I have, &c.

(Signed)

CHARLES DUNCOMBE.

*The Right Hon. Lord Glenelg.*

&c. &c. &c.

SIR,

*Downing-street, 10th September, 1836.*

I AM directed by Lord Glenelg to acknowledge the receipt of your letter of the 5th instant, renewing your application for an interview with his lordship, and stating as your reason for so doing that you are in possession of a private letter to yourself, which you are anxious to submit to him, but which you decline to make public from a fear of attracting on the author the displeasure of the executive government of Upper Canada. In reply I am desired to state, that Lord Glenelg feels assured that you will at once perceive the impossibility of his receiving any statement, inculcating an officer entrusted with the government of one of His Majesty's colonies, on any terms which should forbid the immediate disclosure of the charge to the party affected by it; nor can his lordship admit the supposition that any person would be exposed to injury or prejudice on the part

of Sir F. Head, by the open and respectful statement of any facts connected with the administration of the government of Upper Canada. For these reasons, Lord Glenelg must decline to grant you the private interview which you have solicited, although his lordship will be prepared to receive and to consider any statement or documents which you may transmit to him.

I have, &c.

*Charles Duncombe, Esq.* (Signed) JAMES STEPHEN.  
&c. &c. &c.

*No. 21.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR, *Downing-street, 22nd September, 1836.*

WITH reference to my despatches of the 8th and 12th instant, I have the honour to inclose to you herewith the copy of a letter which I have received from Mr. C. Duncombe, detailing the charges respecting your conduct during the recent elections in Upper Canada, which it was the object of his mission to this country to prefer. I at the same time transmit a copy of the answer which has been returned to him by my direction.

I shall be happy to receive from you, at your early convenience, any explanation which you may think it necessary to offer on the statements contained in Mr. Duncombe's letter.

I have, &c.

(Signed) GLENELG.

First Inclosure in No. 21.

*3, Northumberland-court, Charing Cross,*

MY LORD, *20th September, 1836.*

I HAVE the honour to acknowledge the receipt of a letter from Sir George Grey of the 20th ultimo, together with a copy of a letter addressed to Mr. Hume in answer to a letter from him, requesting that your lordship would allow me to communicate to you personally, circumstances connected with the late elections in Upper Canada.

I very much desired to communicate to your lordship personally, facts connected with the present discontented and unhappy political condition of the people of Upper Canada, which could have been done much more readily and satisfactorily verbally than by letter, and for which special purpose I was deputed to this country; and, had your lordship thought proper to accede to that request, I should then have been able by that oppor-



tunity to submit the facts in writing, and have afforded any explanation you might have wished for.

Mr. Hume has so clearly and forcibly put before your lordship the object I had in view in coming to this country, and the reasons why I should have the opportunity of seeing your lordship, that I can add nothing further than that under these circumstances I am compelled to yield to your lordship's order, and submit the following detail.

All the various causes that have led to the present unhappy state of Upper Canada cannot be detailed in writing without trespassing too long upon your lordship's valuable time.

I shall, therefore, as briefly as possible refer to some (perhaps not the most prominent) of the causes that have led to the present distracted state of the affairs of that province.

Upper Canada is purely a British colony, composed of Canadians by birth, persons from various parts of His Majesty's dominions, and some from foreign countries, most of whom have come to Upper Canada to better their conditions, and on account of their attachment to and veneration for the constitution and institutions of Great Britain.

At the division of the province of Quebec into Upper and Lower Canada by the 31st Geo. III, on Governor Simcoe's assuming the government of Upper Canada, he assured the house of assembly, in his opening speech, that this act "*established the British constitution*, and all the *forms* that secure and maintain it in this distant colony;" and, in his closing speech from the throne, he says: "at this juncture I particularly recommend to you to explain, that this province is singularly blessed, not with a mutilated constitution, but with a constitution which has stood the test of experience, and is the very *image* and *transcript* of that of Great Britain;" and this has uniformly been declared to be the constitution of the province, until the recently proclaimed opinion of Sir F. B. Head, that "the constitution which His Britannic Majesty George the Third granted to this province ordained no such absurdities."

The former confidence in the successful workings of the British constitution, if administered according to the genius and habits of the people, have induced them, from time to time, for the last fifteen years, through the house of assembly and otherwise, to petition the governors of the colony, His Majesty, and the imperial parliament, for the redress of evils growing out of

irresponsible administrations, and praying for the application of such just and liberal measures, as would secure to all His Majesty's subjects in the colony the just administration of the laws, equal rights and privileges, and the free enjoyment of civil and religious liberty; yet these applications have been disregarded by the executive of the province, and favourable answers from His Majesty's government have been so long delayed, or so much disregarded by the executive, when they were received, that the abuses still continued.

These abuses had so increased towards the close of the administration of Sir John Colborne, as to be seriously felt, and loudly and openly complained of by the people throughout the province.

The influence of the house of assembly in the legislature was nearly lost, as was evident from the rejection by the other branches of the legislature of most of the popular bills passed by the house of assembly, although numerous petitioned for by the people, and frequently passed by large majorities in that and former houses of assemblies, and supported by members representing very large majorities of the people; while the executive influence in the government was daily increasing, from the large revenues annually disposed of by them, without the sanction of law, or even being accounted for to parliament.

Some of these revenues are the casual and territorial revenue, the crown revenue, and crown lands revenue, the college lands and funds, the common school lands and funds, all special reserves of land and the funds arising from them, other unsettled lands, as the waste lands of the province, and the funds arising from them; all of which could be much more beneficially applied to objects of utility and public improvement within the province by law than at the pleasure of the executive.

The liberal support of the government and pensioners, the sums annually expended for public improvements, canals, light-houses, harbours, roads, and bridges, common schools, district schools, and other casual expenses, far exceeded that part of the revenues of the province at the disposal of the provincial legislature.

This was daily involving the country in a debt that must eventually lead to direct taxation, while the natural resources of the country were applied by an irresponsible executive government to the support of political priests or the aggrandizement of a party without the sanction of law.

The recall of Sir John Colborne and the appointment of a new

governor selected by a reform ministry, with avowed intentions to reform the abuses of the colony, was, as Sir F. B. Head observes, "glorious news" to the people of Upper Canada; not because the individual was changed, but because the people expected a change of policy, a responsible executive council, composed of persons having the confidence of the people, who would administer the government of the colony with liberality and equal justice to all; and their confidence and gratification were increased by Sir F. B. Head's adding to the executive council Messrs. Dunn, Baldwin, and Rolph; and resolutions and addresses to Sir F. B. Head were daily presented, from all parts of the province and by all political parties, thanking him for calling to his councils gentlemen having the fullest confidence of the people on account of their talents, integrity, ability, and extensive knowledge of the affairs of the province and the wants and wishes of the people; through whose influence it was strongly anticipated that the legislative council would be so re-modelled as to be rendered a useful branch of the legislature; for as it is at present constituted, it should not be called a branch of the legislature, it represents no portion of the people of the province nor any particular interests in the province, and is only another instrument of executive power, composed of persons who, like the lieutenant-governor and executive council, are appointed by the King, and who are not the choice of the people, and who (if possible) are still more irresponsible than the other branches of the executive government, for they do not even *profess* to be responsible even to His Majesty's government for their conduct.

At this time, after a call of the house of assembly, fifty-three out of fifty-five members present voted that it be "resolved, that this house considers the appointment of a *responsible* executive council, to advise the lieutenant-governor or person administering the government on the affairs of this province, to be one of the most happy and wise features of our constitution, and essential to our form of government, and as being one of the strongest securities for a just and equitable administration of the government and full enjoyment of civil and religious rights and privileges."

The adoption by all political parties of this resolution in favor of a responsible executive council was received by moderate men as a pledge for the future liberal, just, and constitutional government of the province; and although the publication by



Sir F. B. Head of his additions to the executive council gave hopes to the colony, yet, however, the same irresponsible system was pursued, and the public mind held in suspense, until the resignation of the executive council and the subsequent disclosure by Sir F. B. Head of his determination to continue the irresponsible system, opened the eyes of the people to his real tory principles.

Upon the appointment of the present executive council, composed of Mr. Sullivan and his associates, the house of assembly addressed Sir F. B. Head, expressing their want of confidence in his council, partly on account of the individuals composing it, but more especially on account of the avowed irresponsible tory system, about to be pursued by Sir F. B. Head and his new council, in the administration of the affairs of the province; but notwithstanding that address they were retained in office, and the old tory policy continued. It is quite correct that after the avowal of Sir F. B. Head of his politics, many of the members who had previously voted for a responsible executive council (among whom were His Majesty's solicitor-general and the leading tory members of the house of assembly) now voted against the very resolution they had before supported.

Petitions poured in from all parts of the country praying the house of assembly not to support the old irresponsible system, but to adopt the only constitutional means in their power of expressing their dissatisfaction of that system, that of withholding the supplies.

The house of assembly entertained those petitions; but knowing that the influence it had by stopping the supply was merely nominal, as the sum under the control of parliament, and voted annually for supplies, was less than 8,000*l.*, out of 40,000*l.* or 50,000*l.* annually disposed of by the executive government, or permanently appropriated by the 4th Wm. IV. towards the payment of salaries, and that their doing so would not probably attract more notice now than it did when the supplies were not passed by the tenth parliament, but for the circumstance that Sir F. B. Head, without precedent, refused his warrant for the payment of contingencies of the legislature, and withheld the royal assent from all the money bills (save one) passed by both branches of the legislature.

And here, my lord, allow me to remark the great difference in the conduct of Sir F. B. Head and other governors. Lord

Gosford, notwithstanding the supplies were withheld in Lower Canada, not only paid the contingencies of the Lower Canada legislature, to a much larger amount than was required by the house of assembly for the contingencies of the legislature of Upper Canada, but he also granted the royal assent to all the money bills and all the bills (save one) passed by the other branches of the legislature, whilst Sir F. B. Head refused the contingencies and the royal assent to the money bills.

Sir John Colborne also, when the supplies were withheld in the tenth parliament, paid the contingencies and granted the royal assent to the bills passed by the other branches of the legislature.

My lord, I can scarcely comprehend how His Majesty's government can consistently approve of the conduct of Lord Gosford in Lower Canada, as they did of Sir John Colborne's conduct in Upper Canada, in pursuing (in this respect) a liberal conciliatory course towards the people of both provinces, and not disapprove of the high-handed, arbitrary, and unconciliatory conduct of Sir F. B. Head, in refusing the contingencies and withholding the royal assent to the money bills; dissolving the parliament while a great constitutional question, referred home by the house of assembly, was pending before His Majesty's government, without waiting for your lordship's instructions.

It appears to me, my lord, quite incredible that your lordship can approve of Sir F. B. Head's unconstitutionally interfering with the elective franchise, subverting the natural resources of the country from their legitimate objects, the improvements of the country, to party electioneering purposes, denouncing a large proportion of the truly loyal people of the province as "our enemies," and allowing, if not actually encouraging, orange associations (notwithstanding the resolutions of the imperial parliament and His Majesty's royal message thereon) to interfere with the elections throughout the province by violence and outrage.

Such conduct, my lord, has induced the people to discuss the question of a responsible executive council, and consequently, the first principles of government, under circumstances unfavourable to the present colonial policy, and even to monarchical governments.

The people of Upper Canada have constantly before them, on the one hand, in their immediate vicinity, a republican government, highly flourishing, contented, peaceable, and pros-

perous, with forty or fifty millions of dollars of surplus revenue to be expended in works of public improvement and utility, wages high, the industrious classes actively and profitably employed, money plenty, business lively, wild land cheap and easily obtained, improved lands rapidly rising in value, and a respectable wealthy emigration rapidly settling and improving the western states; while, on the other hand, they are suffering from the arbitrary and unconstitutional conduct of their lieutenant-governor, discontent and excitement prevailing to a great degree, their own agriculture in a depressed state, without commerce and without manufactures, the province deeply in debt, and no provision made for its final payment. While the wealth of the country is lavished upon political priests and favourites for purposes unworthy of a free government, they see public improvements entirely stopped, emigration to the province very much checked, the industrious classes thrown out of employment, the money market unusually depressed, and hundreds anxiously awaiting relief from the distribution of public funds voted by the legislature, which have been unexpectedly refused by Sir F. B. Head, confidence in public and private securities shaken, the large banks obliged to refuse to discount as usual, and a state of financial embarrassment brought on, seldom, if ever, before witnessed in Upper Canada.

The people have been told by Sir F. B. Head that they had not a responsible executive council, and "that it would be unreasonable to expect that the people of this province should be ruined in vainly attempting to be the exact image and transcript of the British constitution;" but he added, "the constitution which His Britannic Majesty George the Third granted to this province ordained no such absurdities."

Sir F. B. Head has publicly denounced the great body of the people of Upper Canada as "our enemies" whom "he had repelled;" and by his inflammatory harangues exciting and alarming the people, by talking of the province being about to be "disturbed by the interference of foreigners, whose power and whose numbers will prove invincible," and whom he vauntingly challenges; he adds, in his reply to the home district address, "in the name of every regiment of militia in Upper Canada I publicly promulgate, *let them come on if they dare.*"

And when, my lord, by all this despotic conduct of Sir F. B. Head, the quiet, peaceable, industrious, and enterprising Cana-



dians were leaving the province by hundreds, at great private sacrifices in the forced sale of their property and possessions, to avoid such oppression, and to seek an asylum under a cheap responsible government in the United States, the people were told by him that all these evils were occasioned by stopping the supplies,—“that the money which would not only have improved your roads, but would have given profit and employment to thousands of deserving people, is now stagnant.”

“The sufferers in the late war have lost the remuneration which was absolutely almost in their hands.”

“Emigration has been arrested, and instead of the English yeoman arriving with his capital in this free British country, mechanics in groups are seen escaping from it in every direction, as if it were a land of pestilence and famine.” And this the people are told is the “result” of the “grand object” of “stopping the supplies” of less than 8,000*l.*, not coming in course of payment until July and January following, while, in fact, he must have known that your lordship must see that all these evils, which he so truly describes, were occasioned by his own despotic, arbitrary, and unconstitutional conduct, and that of his dependants and orange associates.

If Sir F. B. Head conceals from himself, that he has been the cause of all these misfortunes to the people of Upper Canada, I hope your lordship will convince him that you have discovered the real causes to have been what I have stated.

All these violent measures which I have stated, especially the withholding the royal assent from the money bills, gave very general dissatisfaction throughout the province, as the improvements intended to be carried on by these grants were in a state of progression, and required the immediate use of the money voted to complete them.

Of the supplies of money refused by Sir F. B. Head, the 50,000*l.* voted for the improvement of the roads and bridges was very much required, and could have been much more profitably expended in the early part of the summer season, if he had sanctioned the bill immediately, than after the lapse of time that would be required for the royal sanction.

The sum of 20,000*l.* granted by the assembly for the relief of the war loss sufferers, by which the large sum of 67,000*l.* would have been paid to them and their whole claim settled, which had already been deferred for more than twenty years ;

yet, notwithstanding that the bill was passed in exact accordance with his His Majesty's previous instructions, that bill was also refused the royal assent by Sir F. B. Head.

The bill for the support of the convicts in the penitentiary ;

The bill for the support of the lighthouses ;

The bill for the support of common schools, and various other bills, for public improvements and for the payment of debts due to individuals, were by Sir F. B. Head all refused the royal assent, and will be found to have been the real cause why so many of the industrious inhabitants of Upper Canada were flying from their native country, as from a pestilence, as stated by Sir F. B. Head. They were in reality flying from the arbitrary acts of Sir F. B. Head.

My lord, I call your special attention to the charges, that as well after as before the late parliament was dissolved, and writs issued for the new parliament, Sir F. B. Head unduly interfered with the freedom of elections, by attempting to bias and overawe the people by denouncing in public addresses the members composing the majority of the late house of assembly (most of whom were candidates for re-election) as enemies to the people of the province.

Your lordship's attention is also directed to the charges, that public money has been most unconstitutionally placed at the disposal of committees or other agents of the tory candidates to assist them in their elections.

That the sum of 500*l.* was placed at the disposal of the tories, calling themselves the constitutional society, to be expended in aiding the election of the tory candidates.

That another sum was placed in the hands of the clerk of the house of assembly, with instructions to go to the eastern district and use that money to the best advantage (no doubt corruptly) for securing the election and return of members who would support the unconstitutional policy of Sir F. B. Head.

It is further alleged, that notwithstanding the terms of Lord Goderich's despatch to Sir John Colborne, (every word of which Sir F. B. Head is requested, by that of your lordship of the 5th of December last, to attend to,) in which the lieutenant-governor is told, that " His Majesty expects and requires of you neither to practice nor allow, on the part of those who are officially subordinate to you, any interference with the rights of any of His Majesty's subjects in the free and unbiassed choice of their

representatives ;"—in direct opposition to all these instructions, my lord, Sir F. B. Head has not only interfered with the elections himself, but openly allowed and encouraged all persons under him to interfere with and influence the elections by every means in their power ; by which extraordinary conduct more than one-third of the newly elected house of assembly are sheriffs representing the counties within their executive jurisdiction and other paid officers holding their situations during the pleasure of the lieutenant-governor.

I submit, my lord, that the permitting public paid officers, removeable at pleasure, to seats in the assembly, is contrary to the spirit, if not the letter of the British act, which should apply to Upper Canada as well as to Great Britain, and deserves your immediate attention.

I further state that the rules and regulations ordinarily observed in the land-granting department were wholly disregarded, for the purpose of aiding the partizans of Sir F. B. Head, by issuing patents or grants of land to tory followers, before they had perfected the conditions upon which they were promised such lands ; while many persons who had long before complied with the terms of their location, and who had frequently and urgently pressed the public offices, urging their extreme anxiety to receive their patents, have been obliged to wait until after the election ; that many of these patents have been issued, pending or during the elections, to persons residing out of the county or riding for very small parcels of land,—in many instances for not more than one quarter or half an acre of wild land without any house on it ; thus creating a great number of voters, who went from one election to another, and voted at each election, so that the real freehold electors, resident in the counties or ridings, thus intended to be represented according to the spirit of the election laws of the province intended to guard against bribery and corruption, have been out-numbered, and their elective franchise thus unconstitutionally tampered with.

The following are some of the many instances of the unconstitutional interference by Sir F. B. Head and his dependents with the elective franchise :

William Higgins, bailiff to the sheriff and court of requests Toronto city, voted against the reform candidate upon a deed signed by Sir F. B. Head, 27th June, 1836 ; George Walton, bailiff and sub-sheriff, after electioneering for the tory candidate,



took the oaths, and voted upon about half an acre without buildings upon it, patent dated the Monday previous; John Powel, attorney, and grandson of the late chief justice, voted against the reform candidate upon a quarter acre of land, upon which there were no buildings,—grant by Sir F. B. Head, 28th June, 1836, during the progress of the election; Finley Cameron voted against the reform candidate, patent issued by Sir F. B. Head during the election, 28th June, 1836; John Crighton and Hue M'Lellan voted against the reform candidate under a grant of Sir F. B. Head, patents dated 25th June, 1836; alderman Doctor John King, of the city of Toronto, voted against the reform candidate in the second riding of York, under a grant of Sir F. B. Head of about one quarter of an acre of land without a house, dated, during the election, 28th June, 1836; Robert Ruston and Thomas Johnson voted against the reform candidate upon free grants from the crown for 100 acres each, patents dated 25th June, 1836. Most of the above persons resided out of the second riding of York, where they voted.

It is further alleged that many votes were created by giving patents to persons who had commuted their pensions, and who, without having any special claim for land, had been allowed to occupy small parcels under a licence of occupation, without the power to dispose of it, contrary to the original intent of the location.

That patents have been issued for parts of lots without a description of the part, where only part of the original purchase money had been paid, contrary to the original order under which the same was located; that in other instances patents have been issued to individuals for the whole of the lots they had contracted for, without the payment of the whole of the money originally demanded, contrary to the uniform practice, which requires that the whole of the money shall be paid before the patent shall be issued. In all these cases, the persons thus favoured, voted for the tory candidate, and in no one instance did any of those persons vote for the reform candidate. These examples serve to show some of the many ways, by which votes were created by Sir. F. B. Head to support the tory candidates and overwhelm the reformers in different parts of the province.

My lord, the honest freehold electors, who had long resided in the province, were prevented from voting in many of the counties and ridings of the province, as illustrated in the follow-

ing instance:—Wait Sweet's vote for Mr. M'Kenzie, in the second riding of York, was rejected because he was born in the United States, although he had been in the province upwards of half a century, had a good farm, an undisputed freehold, had served in the late war against the United States, had taken the oath of allegiance in 1801, and was willing to take it and all the electoral oaths required by the statute, but had not the certificate of his having taken the oath of allegiance with him; after being thus rejected, he returned with his certificate of having taken the oath of allegiance, and a certificate of his service in the late war, and yet his vote was rejected by Mr Hepburn, the returning-officer, a commissioner for the sale of Indian lands, removeable at the pleasure of Sir F. B. Head, who refused even to enter Mr. M'Kenzie's objections to the rejection of Mr. Wait Sweet's vote upon the poll book.

I also have to observe, that the newly-created rectors of the church of England were, indecently, actively electioneering for the tory candidates, often among the crowd with their hats in their hands, urging on the enemies of reform. I thought this, my lord, the very wrong way to secure the affections of the people.

And it is to be observed, that generally the state-paid priests and most of those persons whose salaries or offices are at the pleasure of Sir F. B. Head, were violent in their opposition to the reform candidates, either associating themselves with orangemen, previously secretly organized, who with clubs and other instruments, were menacing, threatening, and beating the quiet and peaceable independent reform electors,—often actually driving them from the polls, or they were among those outrageous partizans of Sir F. B. Head, apparently delighted with the violence of their party, and, it is to be observed, without one effort on their part to check these excesses and breaches of the peace; thus indicating the source from whence this organized system against the freedom of election emanated, and the slight chance a reformer would have of obtaining legal justice for their injuries, or even the loss of the lives of their friends, as their complaints must be made to men bound together by *secret* solemn oaths, or to their violent partizans in their political strifes and violent outrages.

It is also alleged that the Honourable James Crooks, a member of the legislative council of Upper Canada, tendered his vote,

which was received, for the tory candidates, contrary to the practice either in Canada or in England.

It is further alleged that Andrew Shore, charged with felony, and committed to take his trial at the next assizes, was admitted to bail without a judge's order by Messrs. Alderman Gurnett, editor of the *Courier*, the demi-official organ of the government, and Alderman Dennison, both active partizans of Sir F. B. Head, to enable him to vote against the reform candidate.

These, my lord, are only a few of the many arbitrary and unconstitutional acts of Sir F. B. Head and his dependents, of which the people of Upper Canada complain, and which the reformers instructed me to point out to your lordship personally, and which I should have endeavoured to have done had your lordship afforded me an opportunity.

I take this opportunity of entering my protest against the course which your lordship has adopted of refusing to grant me an interview, at which I should have done more justice than I now can to the important duty imposed on me by my fellow countrymen in Upper Canada. I consider the treatment which Mr. Baldwin and myself have met with at your lordship's hands in being refused an interview, highly unjust and oppressive, as it is well known that no person deputed by the tory party in Upper Canada was ever refused an interview in which to state their grievances; and if, my lord, we are to be treated by lieutenant-governors as we have been by Sir F. B. Head, and afterwards refused all access to the colonial minister of the crown when we come 4,000 miles to state our grievances, what justice or protection can the people of the colonies obtain against any oppressive and arbitrary act?

I enter this my protest *against* your lordship's conduct on behalf of those my countrymen who have sent me to England to seek redress.

And I further complain against your lordship for refusing me an interview on an individual case, specially referred to your lordship's decision by the late lieutenant-governor and council of Upper Canada, although I have three times requested the same.

I shall return to Upper Canada and report the treatment I have received, and what the expectations of my countrymen for justice can be from the colonial ministers.

I have, therefore, my lord, as the only resource left, in the



name and on behalf of the reformers of Upper Canada, most earnestly and most confidently, yet most humbly and most respectfully to request, that His Majesty's government will investigate the manner in which the late elections in Upper Canada have been conducted on the part of Sir F. B. Head and his dependents, and all the allegations I have made in this letter, and in the petition presented to the house of commons by Mr. Hume, on the 19th of August last, by impartial and disinterested parties not belonging to the province, before your lordship shall decide on such unconstitutional conduct. And I request you to adopt such measures, in accordance with the wishes of a large majority of the people of the province, as shall secure to them the freedom of election, a cheap and responsible government, the regulation of their own internal affairs, the application by law of all the natural resources of the country to works of general utility and improvement, through a just, wise, and liberal construction of the constitution of the province, thereby promoting the mutual good offices between them and the parent state, inspiring and promoting a confidence in the paternal fostering care and protection of the mother country, and thus increase and confirm the attachment of His Majesty's loyal subjects of Upper Canada to Great Britain, and strengthen and perpetuate the connection between them, that may be made highly beneficial to both the mother country and the colony.

I have, &c.

(Signed) CHARLES DUNCOMBE.

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Second Inclosure in No. 21.

SIR,

*Downing-street, 21st September, 1836.*

I AM directed by Lord Glenelg to acknowledge the receipt of your letter to his lordship of the 20th instant, in which you have preferred various charges against Sir F. B. Head, the lieutenant-governor of Upper Canada, in reference to the recent general election of members of the house of assembly of that province.

Lord Glenelg directs me to state, for your information, that he proposes to avail himself of the earliest opportunity for transmitting a copy of that letter to Sir F. B. Head, for such explanations as that officer may be able to give respecting the matters laid by you to his charge; in the meantime his lordship will, of course, suspend his opinion on the subject. He directs

me, however, to state that he cannot receive accusations of such a nature against a public officer of high and unblemished character, without recording his persuasion that they will be found susceptible of a satisfactory answer.

With reference to your protest against Lord Glenelg's decision to carry on his communications with you, not in personal interviews, but in writing, his lordship directs me to observe, that the obligation of acting with strict impartiality towards all persons with whom he is brought into official intercourse, would have forbidden him to receive, in mere conversation, charges impugning the honour and reputation of any man, however humble his station in life; nor can his lordship think that, as a public accuser of the lieutenant-governor of Upper Canada, you are justly entitled to complain that you have been required to prefer your charges in that form in which alone they could be expressed with precision, and subjected to the test of an exact inquiry.

With regard to your application for the confirmation of your title to certain lands in the province to which you allude, as connected with the more general political questions embraced in your letter of the 20th instant, Lord Glenelg directs me to refer you to my letter of this date, conveying to you his lordship's decision on that subject.

I have, &c.

*C. Duncombe, Esq.*

(Signed)

GEORGE GREY.

*No. 22.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 30th September, 1836.*

IN the conduct of affairs in British North America, no principle is of more importance than the maintenance of one consistent and uniform course of policy, in the administration of the governments of the different provinces which comprise His Majesty's dominions in that quarter of the globe. It is vain to suppose that any concession can be made to the general assembly of any one of those provinces, and withheld from the rest, or that on the part of the crown any prerogative can be effectually asserted in one, unless it be maintained with equal firmness in the others. Hence the necessity of a mutual good understanding between the officers administering the different governments; and hence, also, the importance of a free communication between them, and especially of each being apprised, as soon as possible, of any considerable measure which may be

adopted in this country with reference to any one of the provinces in question.

Bearing in mind these considerations, I transmit to you copies of certain despatches which I have addressed to the lieutenant-governor of New Brunswick. As I trust that they will be found to convey, with sufficient distinctness, an explanation of the circumstances in which they originated, and of the motives by which they were suggested, I enter into no further statement of that nature.

You will find in these despatches, not the mere general assertion, but, so far as depends on His Majesty's government, the practical execution, of some of the most important principles by which it is designed to conduct the administration of British North American affairs. So far as those measures are capable of application to Upper Canada, you will have the goodness to consider my instructions to Sir A. Campbell as addressed to yourself. In transferring them to the case of a different province, it is of course designed that every latitude should be left for their adaptation to the exigencies of the public service which may be prescribed by the inherent differences of local circumstances.

It has appeared to me that it would be very desirable to accelerate the meeting of the legislature of New Brunswick; in order that the nature of the proposed arrangements, in that province, might be well understood in both the Canadas and in Nova Scotia, before the opening of the regular session of the general assemblies of those provinces. I have every reason to anticipate from the legislature of New Brunswick, so distinct and cordial an affirmation of the great constitutional principles which have been controverted elsewhere, as may largely contribute towards the more easy and satisfactory settlement of the questions in debate in Upper and Lower Canada. It is further my wish that the meeting of the Upper Canadian assembly, though postponed for some weeks after that of New Brunswick, should precede by an equal period, the meeting of the legislature of the lower province. From this arrangement, I foresee the advantage that in Upper Canada, in the probable temper of the new house of assembly, another most important declaration may be obtained in favour of constitutional principles, while the danger which may exist there of urging to a hazardous extreme, the recent victory over a hostile party may thus also be avoided.



If these expectations should be fulfilled, Lord Gosford would meet the Lower Canadian assembly with advantages of which he might perhaps be able to make a most important use. The popular leaders, perceiving that their views had been disavowed in the adjacent provinces, would probably approach the discussions of the questions, which they have so long agitated, in a much more moderate and sober temper of mind than formerly.

Or if they should still persevere in the course which they have hitherto pursued, and thus impose on parliament the necessity of any direct intervention, the obstacles which have hitherto prevented recourse to such measures, would be very greatly diminished, by the public and decided adherence of the other British North American legislatures to a different policy.

Although such are my own views, and although I transmit to Lord Gosford a counterpart of this despatch, I do not venture at this distance to enjoin on yourself and his lordship an exact compliance with them; but you will immediately enter into correspondence with Lord Gosford on the subject; and unless you and he should concur in opinion, that it is desirable to pursue a different course, the meetings of the Canadian legislatures must be so regulated as to afford opportunity for the execution of the plan which I have explained. If, on the other hand, you and Lord Gosford should agree in preferring a different order of proceeding, I shall be perfectly satisfied to yield my opinion to your concurrent judgment, and shall be convinced that it has been adopted on solid and sufficient reasons.

In Nova Scotia and in Prince Edward's island, these controversies have not hitherto arisen, nor perhaps are they likely to grow up in those provinces. But in transmitting to the officers administering the government of those provinces a copy of this despatch, and of its inclosures, I have desired them to call together their respective legislatures at whatever period Lord Gosford may, in concurrence with you, point out to them as being most calculated to facilitate his lordship's success in the approaching session of the general assembly of Lower Canada.

I have, &c.

(Signed) GLENELG.

First Inclosure in No. 22.

*Lord Glenelg to Sir A. Campbell.*

SIR,

*Downing-street, 31st August, 1836.*

I HAVE to acknowledge the receipt of your despatch of the

obtain detailed accounts of the receipt and expenditure of the 16th March last, No. 19, transmitting the copy of an address from the house of assembly of New Brunswick to His Majesty, on various subjects connected with the administration of public affairs in that province. I have since received from Messrs. Crane and Wilnot, the gentlemen deputed by the house of assembly to represent them in this country, the original address of the assembly; and I have also been in communication with those gentlemen, as well on the matters to which the address adverts as on others connected with the colony. I inclose for your information copies of the correspondence which has passed with them.

I have had the honour of laying at the foot of the throne the address of the house of assembly, and I am commanded to express His Majesty's satisfaction at the spirit and temper in which the house have framed this record of their sentiments, on subjects of great constitutional interest and importance.

The assembly express their approbation of the instructions issued by His Majesty's commands to Sir F. Head and to the Canada commissioners, and state that it would afford them entire satisfaction if the principles which they involve were carried into operation in New Brunswick.

It is with great pleasure that I am enabled to give the assembly the satisfaction which they desire. The principles involved in those instructions are not of limited application; they form the basis of the policy, which, in His Majesty's judgment, it is the wisdom of this country to pursue in reference, not only to the Canadas, but also to all the other states of British North America.

I proceed to bring this general declaration to a practical test in the answers which I am commanded to return to the address.

1. The first subject to which the assembly advert is the management of the crown estate. Their representation is in substance, that the powers at present confided to the commissioner of crown lands are excessive, and that the system which that officer, in the exercise of his discretion, has followed, has tended to retard the settlement and the prosperity of the province. But, in deference to the judgment already expressed by His Majesty on this subject, the assembly withdraw on the present occasion their claim for the entire control and management of the crown lands, and suggest that such control and

management should in future be confided to the administrator of the provincial government and the executive council.

The memorandum inclosed in the joint letter of Messrs. Crane and Wilmot, dated the 27th instant, will explain to you the representations which those gentlemen have added on this part of the question.

From my despatch of the 31st March last, you will have seen that the management of the crown lands in New Brunswick has lately engaged much of my attention. Without stopping to inquire whether that despatch may not in some degree have anticipated the objections urged by the house of assembly, I am at once to convey to you His Majesty's decision on the proposed measures of amelioration.

His Majesty is pleased to acquiesce in the suggestion, that the management of the crown lands should for the future be confided to the administrator of the government for the time being, aided by his executive council. In pursuance of this decision, it will be your duty hereafter, in all questions relating to the disposal of lands or timber belonging to the crown, to submit the subject for the consideration of the executive council, and to proceed only in conformity with the opinion of that council, or of a majority of its members. To the commissioner of crown lands, however, will still belong the duty of carrying into effect such measures as shall have been thus decided on.

His Majesty at the same time, readily admits the right of the legislature of New Brunswick to pass such laws as may seem to them expedient for the guidance of the executive government in this branch of their duties. His Majesty will be at all times prepared to receive, and to consider with attention, any suggestions or advice respecting the policy and system of management of the crown lands which may be offered to the crown by the council and assembly of New Brunswick, whether by addresses or in the form of legislative enactment. But as this is a matter in which the prerogative of the crown is immediately concerned, and as it would obviously be inconvenient that any uncertainty should be introduced into the regulations for the disposal of crown lands, it will be indispensable that any act to be passed for such a purpose should contain a clause suspending its operation until His Majesty's pleasure respecting it shall have been declared.

2. The assembly complain that they have not been able to



casual and territorial revenue, and have thus been prevented from making those suggestions respecting the management of that fund, which, by Lord Ripon's despatch of the 2nd January, 1833, they were invited to offer.

It would appear, by the observation annexed by you to the address, that you dissent in some degree from the correctness of this statement. I am not, however, called on this occasion to examine into what is past. With respect to the future, I have to convey to you His Majesty's commands, that the most prompt attention should be paid to any addresses which may be presented to you by the house of assembly, for information on subjects connected with the receipt and expenditure of the casual and territorial revenue. His Majesty has no desire to withhold from the representatives of the people of New Brunswick any information on such points which they may consider necessary for their guidance; but as some misapprehension appears to have hitherto existed on the subject, I must direct that in future there be annually laid on the table of the house of assembly, within fourteen days from the commencement of their session, a detailed account of the receipts and expenditure of the casual and territorial revenue of the province for the year last past. This return must be prepared with the utmost clearness and precision; and it might perhaps be possible for you to arrange before-hand with the assembly, the form in which it could be most advantageously drawn up. It is scarcely possible to contemplate a case in which it might be necessary to refuse the call of the assembly, for any information on this subject, but should a case occur, you will not fail immediately to report the circumstance to me.

3. The assembly next allude to the composition of the executive council.

They recommend that the numbers of the council should be materially increased; and His Majesty will take this suggestion into consideration, although he is not yet prepared to declare whether it can be carried into effect, still less what should be the extent of the proposed increase.

The assembly further express their cordial concurrence, in the views of Mr. Spring Rice, relative to the summoning to that board of some members of the popular branch of the legislature.

On this topic the assembly have expressed themselves with a just delicacy. Declaring their approbation of Mr. Spring Rice's

despatch, they yet disclaim any wish to offer an opinion to the King as to the persons whom His Majesty may be pleased to call to fill seats in the executive council. It is obvious, indeed, that a peremptory rule on the subject would be inadmissible. At present it is open to the crown, at its own discretion, to select members for the executive council from all descriptions of His Majesty's subjects. The prerogative is unfettered, and it is, in the opinion of His Majesty's advisers, most advantageous for all parties that so it should remain. With respect to the manner in which it shall, in this branch of it, be exercised, His Majesty can give only the general assurance, which he directs me to convey to the house of assembly, that his selection of persons to sit in the executive council, will be guided solely by a reference to the permanent interests of the province, and to the qualifications of those whose names may be submitted to him for that distinction.

4. The composition of the legislative council is the next subject alluded to by the house. Admitting that no great public evil has yet arisen from this source, they nevertheless express their apprehension, that, according to the principles laid down in the instructions to the Canada commissioners, those members of the council who hold office under the crown could not be expected to exercise an unbiassed judgment on the questions which might come before them. His Majesty's ministers entirely agree in the importance of securing the independence of the legislative council; they are not indeed prepared, especially after the candid admission of the assembly as to the working of the present system, to recommend to His Majesty the supersession of any of the present members of the council, nor do they consider office as of itself a disqualification for a seat in the council; but they freely admit that the introduction into it of too large a number of persons holding places of emolument, under the executive government, would tend to detract from its weight as an independent branch of the colonial legislature. Lord Ripon, in a despatch, dated the 1st May, 1832, observes, that "the legislative council should principally consist of gentlemen independent of, and unconnected with, the executive government, and selected from the principal inhabitants of the province, and those having the greatest stake in its welfare." To this principle, although it would seem that accidental circumstances have hitherto prevented it from being carried into full effect,

His Majesty's government continue to adhere. Whenever therefore it may become your duty to recommend to me, for His Majesty's approbation, the name of any gentleman to be appointed a member of the legislative council, you will bear in mind the rule laid down by Lord Ripon, in the words which I have just quoted.

It may be proper to advert in this place to the impression which has been produced on the minds of the assembly by those clauses of the instructions to Sir Francis Head, "which" (to use their own language) "might be supposed to affect the independence of members of the legislature holding any inferior office, or appointment under the government." On this subject it is enough to point out to the observation of the assembly, that the clauses in question, in so far as they concern persons holding seats in either house, have reference expressly to "*members of the local government*;" not to inferior officers, but to those who form an actual portion of the executive government, and whose cordial sympathy and co-operation are absolutely indispensable to the existence of any system of administration. With regard to such individuals, I trust the assembly will admit the justice of the observation which concludes the consideration of this topic in the instructions to Sir Francis Head:—"Unless this course be pursued, it would be impossible to rescue the head of the government from the imputation of insincerity, or to conduct the administration of public affairs with the necessary firmness and decision."

5. I now come to the application of the assembly for the surrender to them of all the revenues, at the disposal of the crown, in the province, including the payments of the Nova Scotia and New Brunswick Land Company, in return for a civil list, to be granted for a period, either of ten years or permanently.

After a due consideration of the circumstances of the case, I have to inform you, that, subject to two qualifications to be subsequently noticed, His Majesty has been graciously pleased to consent to this application of the assembly. The two qualifications to which I refer are the following:—

First. The appropriation of the house of assembly is to be exercised, not over the gross, but over the net amount of the revenue to be placed under their control. The proper and moderate charges incident to the collection and management of



that revenue will continue to be defrayed as at present ; but an account of those charges will be included in the statements respecting the casual and territorial revenue, which, in a former part of this despatch, I have directed to be annually submitted to the house of assembly. I need scarcely add, that His Majesty would at all times be prepared to devote the most attentive consideration to every suggestion from either branch of the legislature, with respect to the amount of the charges of collection.

Secondly. The second qualification has for its object, to preclude questions which might otherwise arise as to the manner in which the right of appropriation is to be exercised by the house of assembly. His Majesty proposes that the law and customs of parliament, and more especially the established usages of the house of commons, with regard to the appropriation of the surplus of the consolidated fund of Great Britain and Ireland, shall be assumed by the legislature of New Brunswick, and more especially by the house of general assembly, as affording the rule for their guidance in the appropriation of the revenues of that province. Some exceptions may unavoidably arise out of peculiar local circumstances, forbidding a perfect coincidence in the two systems, which however, subject to those exceptions, would be precisely similar.

In regard to the amount of the civil list to be granted by the house of assembly, I am to inform you, that His Majesty will be willing to accept the sum of 14,000*l.* sterling, that being the sum originally demanded by Lord Stanley. In determining this part of the question I have not overlooked the fact, that in Lord Stanley's despatch of 30th September, 1833, it was not distinctly stated whether the sum which he named as the amount of the civil list, was calculated in sterling or in current money. But any doubts which might otherwise exist on this point, must be at once decided by the schedule attached to his despatch, wherein are recited the services, amounting in all to 14,000*l.* sterling, to which he proposed to appropriate the civil list.

If, therefore, a bill should be passed by the provincial parliament, and presented to you, having for its object the securing to His Majesty of a civil list amounting to 14,000*l.* sterling per annum, either for the space of ten years or permanently, you will reserve it for the signification of His Majesty's pleasure ; and you will not, in the meantime, consider yourself at liberty to

apply any portion of the casual and territorial revenue to services which have not already received the express sanction of His Majesty's government.

The following are the services to which, in the event of its being granted, it is intended in the first instance to apply this sum : viz.

			£	s.	d.
Salary of Lieutenant-governor	-	-	3,500	0	0
Chief Justice	-	-	950	0	0
Three puisne Judges	-	-	1,950	0	0
Attorney-general	-	-	550	0	0
Solicitor-general	-	-	200	0	0
Colonial-secretary	-	-	1,430	0	0
Private secretary	-	-	200	0	0
Commissioner of crown lands	-	-	1,750	0	0
Establishment of ditto	-	-	909	0	0
Salary of Auditor	-	-	300	0	0
Receiver-general	-	-	300	0	0
Scotch Minister	-	-	50	0	0
Emigration Agent, St. John's	-	-	100	0	0
Annuity to late Surveyor-general	-	-	150	0	0
College	-	-	1,000	0	0
Indians	-	-	54	0	0

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£13,393 0 0

After defraying these charges there will still remain a surplus of 607*l.* sterling, applicable to any incidental expenses for which no provision shall have been previously made. You will however of course understand, that, in thus pointing out the offices of which the salaries are to be paid out of this fund, His Majesty does not preclude himself from the revision of those salaries at a future date. In the case of some of them, indeed, it has been already announced to you by my predecessors that reductions will be made on the occurrence of vacancies ; and it is probable therefore that the surplus may hereafter exceed the sum which I have stated. In anticipation of that event, His Majesty directs me to announce, that, whatever the amount of that surplus may hereafter be, it will be applied exclusively to objects connected with the province, and with a view solely to public interests, and an account of it will be annually laid before the house of assembly.

It has been suggested, that as the quit rents were included among the revenues which, accordingly to Lord Stanley's proposal, would have been given up to the assembly, so among the revenues to be surrendered under the arrangement now under consideration, should be included the sum granted in the session of 1835, in commutation of the quit rents. To this suggestion, His Majesty sees no reason to object, and he would therefore not be disposed to withhold his assent from any act which might be passed by the provincial legislature for the purpose of repealing the quit rent commutation act of 1835.

In closing this communication, I am commanded to express the satisfaction with which His Majesty has felt himself enabled to decide on the various particulars to which it refers. This gracious attention on the part of His Majesty, to the wishes of his faithful subjects in New Brunswick will, the King has no doubt, be received by them as a fresh proof of the interest which he takes in their welfare, and of his solicitude to promote the development of the great and manifold resources of that portion of the British empire.

I have, &c.

*Sir A. Campbell.*

(Signed)

GLENELG.

&c. &c. &c.

Second Inclosure in No. 22.

*Lord Glenelg to Sir A. Campbell.*

SIR,

*Downing-street, 5th September, 1836.*

IN my despatch of the 31st ultimo, I have communicated to you the answer which His Majesty has commanded me to return to the address from the house of assembly of New Brunswick of the 14th March last. I have at the same time inclosed for your information, copies of the correspondence which had passed on the subject of that address, and on other matters of a public nature between this department and Messrs. Crane and Wilmot, the gentlemen deputed by the house of assembly to represent them in this country. Having communicated to Messrs. Crane and Wilmot the draft of my despatch of the 31st ultimo, I have received from them the inclosed observations upon it. I have also had with them personal communications on the subject. I now proceed to inform you in what respects His Majesty has in consequence been pleased



to direct that the instructions contained in my despatch of 31st ultimo, shall be altered or modified.

1. The first alteration proposed by Messrs. Crane and Wilmot is, that the executive council should, in compliance with the wishes of the assembly, be at once enlarged, without waiting the further deliberation contemplated in my despatch of the 31st ultimo. On this point, His Majesty, after a due consideration of the arguments urged by the house of assembly, and of the representations of Messrs. Crane and Wilmot, is prepared to adopt the necessary steps for meeting the wishes of the assembly. It is unnecessary, on the present occasion, to offer any pledge as to the precise number of which the executive council should hereafter consist ; nor indeed could an invariable rule be prescribed on that subject without inconvenience. But you will immediately report to me the names of several gentlemen whom you may think most eligible for seats in His Majesty's executive council. In making your selection, you will not confine yourself to any single class or description of persons, but will endeavour to ensure the presence in the council, of gentlemen representing all the various interests which exist in the province, and possessing at the same time the confidence of the people at large. It may not be possible always to find such persons in the neighbourhood of the capital, but I am assured that there are gentlemen of fortune in the province who, if appointed to the council, would, from public motives, attend to the duty.

2. The instructions respecting the regulation of the land department are next alluded to, and much stress is laid on the expediency of permitting you to give your assent at once to any acts which may be passed by the legislature for that purpose, instead of reserving them for the signification of His Majesty's pleasure. I must, however, remark, that whatever advantages might accrue from this course, they could scarcely compensate for the inconvenience which might result from a disallowance, should that be necessary, of such acts, after they have gone into operation. It would be superfluous to enlarge on the hardships which might be produced by the annulling of an act under which property had been already acquired or devised, or to point out how much the disappointment created by such a proceeding, must exceed that which would result from a temporary delay in the confirmation of the act. There is,

however, an alternative, which, while it would guard effectually against the inconvenience just stated, would at the same time, I have reason to think, be satisfactory to the assembly. And this is, that no act for the regulation of the land department shall come into operation till at a given period after its passing. If, therefore, any act of that nature, presented to you hereafter, shall contain a clause providing that it shall not come into operation till the expiration of at least four months from its date, you will be at liberty, should you see no objection to the act on other grounds, to give your assent to it. In such a case, I need hardly state, that it will be your duty immediately to transmit the act to me, in order that it may be brought under the consideration of His Majesty in council.

3. With respect to the surrender of the casual and territorial revenue, I have to observe, that in proposing that the net proceeds only should be paid over to the provincial treasury, His Majesty's government made no claim which is not in strict accordance with the law and practice of this country. The hereditary revenues of the crown have been placed at the disposal of parliament. Parliament has in turn confided to the executive government the powers and the duty of determining, in the first instance, whatever relates to the expense of management and collection, subject to the obligation of rendering an annual account of that expense. It is obvious that if the legislature should assume the right of predetermining the various items of that expenditure, they would be virtually invested with the entire management of the territory itself, and must exercise a power which has never been placed in this country in any other hands than those of the executive government. To depart from the established usage in this respect, would be to subvert the existing balance of the constitution, and to place powers of the greatest importance in hands not subject to any effective responsibility.

I propose, therefore, that as in Great Britain the cession of the hereditary revenue was accompanied by an enactment which enabled the lords of the treasury to fix, in the first instance, all the charges of collection and management, so in New Brunswick the cession of the corresponding revenue to the appropriation of the general assembly should be accompanied by an act authorizing the governor of the province, with the advice of his executive council, to expend out of the gross income whatever

sums they may find necessary for the management and collection of that revenue. And as in Great Britain the house of commons, by exercising its judgment on the accounts of the expenditure which are always laid before it, has in effect a sufficient and constitutional control over that expenditure, so in New Brunswick the same control over the revenues in question would, by the same means, be vested in the house of assembly.

The assurance which you have been directed to convey to the house of assembly, that accounts of the receipt and expenditure of that revenue shall be annually laid before them, and that His Majesty will be ever ready to devote the most attentive consideration to any suggestions from either branch of the legislature, in regard to the expense of collection, appear to afford a guarantee against any unnecessary disbursements for that service; but there would be no objection to confirm that assurance by a positive enactment.

4. Messrs. Crane and Wilmot next advert to the amount of the civil list, and suggest that the sum of 15,000*l.* currency, should be substituted for that of 14,000*l.* sterling. Although it has not been in my power to advise His Majesty to accede altogether to this suggestion, I am yet of opinion, after adverting to the arguments urged by those gentlemen, both in their written communications and in conversation, that some modification of the proposition contained in my despatch of the 31st ult. may be advantageously made. Among the items therein specified as permanent charges on the civil list, is the sum of 909*l.* for the establishment of the commissioner of crown lands. This item was inserted in conformity with the scheme contemplated by Lord Stanley in 1833: but there appears to be no sufficient reason why the expenses of the in-door establishment of the commissioner of crown lands should not be defrayed in the same manner as all other expenses incurred for the management of the crown estate, and the collection of the revenue arising from it. This charge, therefore, being deducted from the civil list, His Majesty will be ready to accept the sum of 14,500*l.* currency, in exchange for the casual and territorial revenue, instead of the sum of 14,000*l.* sterling, demanded in my despatch of the 31st ult. I cannot doubt that the assembly, considering the large and growing revenue to be given up to their control in return for this sum, will cheerfully agree to the terms offered to them by His Majesty's government.



The sum of 14,500*l.* currency, would, I presume, be equal to 13,050*l.* sterling, and there would, therefore, remain an immediate surplus of 566*l.* sterling, which will of course be hereafter increased by reductions in the amount of the salaries at present borne on the civil list. Among the objects to which it is my purpose to devote a portion of this surplus, is the institution of an efficient office of audit within the province, for all the revenues raised and expended in it. I am of course aware that at present it is the custom of the house of assembly to appoint, from time to time, committees of their body, to whom are referred such financial returns as are laid on their table, and who in fact exercise the power of auditing the accounts specified in such returns. It is far from my intention to undervalue the labours of these committees, or to question the advantage which must accrue to the public service from the rigid supervision by the representatives of the people, of the expenditure of the executive government; but, at the same time, committees of a popular body are but an inadequate substitute for a permanent and responsible officer, whose sole duty it would be to inspect the accounts of public departments. The experience and practical skill, the intimate and continuous knowledge of official transactions, which are necessarily acquired by such an officer, give him many advantages over any fluctuating body. It is also to be observed that the appointment of an auditor, immediately responsible to His Majesty, is more consistent with the constitution and practice of this kingdom than the consigning of the duty of examining the public accounts altogether to the representatives of the people. The office of auditor, as at present constituted in New Brunswick, is, I apprehend, insufficient for the duties which I have here proposed to devolve on it. I have therefore to desire that you will bring this subject under the notice of the council and of the house of assembly, and request them respectively to furnish me with a report on it, specifying, among other points, what should be the amount of remuneration to be conferred on the officer at the head of the proposed department. On receiving that report, I shall lose no time in communicating with the lords commissioners of the treasury, and in preparing, in concert with them, the necessary arrangements for the institution and regulation of the office.

It is to be understood that I by no means propose or contemplate that the officer so appointed should supersede the

labours of the committees of the house of assembly. Those committees will, if the house think fit, continue their inquiries exactly as they do at present; nor will the auditor in any degree impede or interfere with their proceedings; indeed it will be always in the power of the house to obviate any such consequence.

5. The last subject noticed in the inclosed memorandum, is the scale of salaries of public officers, and it is proposed that the reductions to be made in these salaries on the occurrence of vacancies, should be distinctly specified in the despatch to you. It is also stated to be the opinion of the house of assembly, that no officer in the province, except the lieutenant-governor, should receive a larger salary than the chief justice or a puisne judge of the supreme court. I am fully alive to the importance of the subject thus brought under my notice, but advertting to the rapid changes which are taking place in New Brunswick, and to the length of time which may possibly elapse before an opportunity occurs for revising the offices of which the emoluments are borne on the proposed civil list, I am of opinion that it would not be convenient at the present time to pledge His Majesty's government to the specific amount of remuneration which shall hereafter, and perhaps under altered circumstances, be attached to those offices; at the same time I am anxious to institute a course of inquiries calculated to prepare materials for a final and well-considered judgment on the subject. With this view, I desire to receive from yourself, and from the legislative council and the house of assembly respectively, reports pointing out the amount of emoluments, which in your opinion, would constitute an adequate remuneration for each of the offices in question. It is of course understood, that during the tenure of the present officers, their existing emoluments shall be preserved to them, but whenever vacancies shall occur, His Majesty's government will consider what reduction should be made in those emoluments, and will devote their serious attention to the statements which I have now invited, in the hope that they may be able at once to effect a considerable saving in the public expenditure, without impairing in any degree, the efficiency of the respective offices. It must, moreover, be distinctly intimated to every officer, who may hereafter be temporarily appointed to any of the situations of which the salaries are borne on the civil list, that should such temporary appointment be subsequently confirmed, the emoluments of the office will nevertheless be subject to revi-

sion and reduction, and that no claim to compensation for loss of salary will have been created by the discharge of the duties ad interim. With respect, however, to the office of lieutenant-governor, I am to observe, that it has been already determined, on the occurrence of the next vacancy, to reduce the salary attached to it to £3,000 sterling per annum. Below that sum, it could, I think, scarcely be reduced, consistently with the rank and dignity which the lieutenant-governor is required to maintain as His Majesty's representative.

I have now gone through all the points mentioned in the inclosed memorandum; but before I conclude this despatch I must advert to a topic which has been pressed on my attention by Messieurs Crane and Wilmot. It has been stated, that by the stipulation that the net proceeds only of the casual and territorial revenue should be ceded to the assembly, an almost unlimited power of expenditure, for purposes connected with the management of the crown estate, still remains in the hands of the executive government. In order to prevent any abuse of this power, it is proposed that an instruction should be given to you, that, on the presentation of an address to you from the assembly, expressing their disapprobation of any expenditure then actually in progress, you should suspend the progress of such expenditure until the King's government at home shall have an opportunity of deciding on the propriety or impropriety of continuing it. To this proposition I have felt myself unable, for several reasons, to assent; but I have informed Messieurs Crane and Wilmot, that, on the occurrence of the event which they have contemplated, you will receive with all the weight due to the opinion of the representatives of the people, any address which might be presented to you by the assembly, and that you would be instructed to lay that address before your executive council, and to receive their opinions on the subject of it before taking any decisive step, and it would be, moreover, your duty in such a case, immediately to report the circumstances to me, with a full explanation of the grounds on which your ultimate decision shall have proceeded.

Such are the modifications of my despatch of the 31st ult., which, after a full consideration of the subject, His Majesty's ministers have felt themselves at liberty to recommend to His Majesty, while they regret their inability to proceed to the full extent of the wishes of Messieurs Crane and Wilmot, they are



yet persuaded that the liberal spirit in which His Majesty's answer to the address of the house has been conceived, will sufficiently indicate the anxiety of His Majesty to accede, as far as is compatible with public interests, to their wishes on matters connected with the administration of the provincial government. The differences of opinion that may still remain in some particulars between the views of the assembly and those adopted in this country, are perfectly compatible with the existence of a sincere and single desire on both sides to consult only the permanent well-being of the province, and cannot therefore, it is trusted, impede the satisfactory settlement of the questions mooted in the address of the assembly of the 14th of last March.

I have, &c.

*Sir A. Campbell.*

(Signed)

GLENELG.

&c. &c. &c.

Third Inclosure in No. 22.

*Lord Glenelg to Sir A. Campbell.*

SIR,

*Downing-street, 10th September, 1836.*

WITH reference to my despatches of the 31st ult., and of the 5th inst., explanatory of the arrangements into which it is proposed to enter with the legislature of New Brunswick, it has appeared to His Majesty's government necessary that measures should be taken for holding a session of that legislature with the least possible delay. Considerations applying, not to New Brunswick alone, but to the other British North American provinces also, require that no time should be lost in giving general publicity to the proposals which you are authorized to make. You will therefore take the necessary measures for convening the general assembly for the despatch of business immediately on your receipt of this despatch.

On the meeting of the legislature you will by a message communicate to the legislative council and to the assembly, copies of my despatches of the 31st August and of the 5th September. It is my wish that no needless reserve should be practised on this occasion. The views explained in those despatches having been maturely adopted, after a full and careful investigation, it is desirable that they should be fully known and clearly developed to the legislative bodies of New Brunswick, and, through them, to the legislatures of the other British North American provinces.

In one respect the arrangements announced in the despatches just referred to are defective; they do not comprise any detailed explanation of the provisions of the act to be made for securing the civil list, and for the regulation of the sale of the crown lands. I am yet engaged in correspondence with Messieurs Crane and Wilmot on those topics, and some time may possibly elapse before I can settle with those gentlemen what are the precise terms in which those laws ought to be drawn up; you will not, however, postpone on that account the meeting of the legislature, or the communications which are to be made to them. The general principles may be considered and agreed upon by the two houses, without reference to the more minute details. Indeed, I have entered upon the discussion of those details, not as thinking that additional task indispensable, but because I wish, as far as possible, to relieve you from an irksome responsibility, by rendering your instructions precise and definite in every respect.

You will further observe, that it is my wish and instruction that you should act, and require the public officers of the province to act, in the spirit of those despatches, from the time of your receiving them, and even before they can be communicated to the legislature. Thus, for example, you will direct the surveyor-general, and the commissioner of crown lands, to conform himself immediately to the principles laid down for the guidance of his department, abstaining from selling lands in any large lots, or from doing any other act which there may be sufficient reason to conclude will be prohibited by law, so soon as the arrangements contemplated on that subject shall have been reduced into the form of a legislative act. You will, in short, execute the instructions contained in those despatches in the spirit in which they were written, that is, in the most perfect candour and good faith, regarding them, not as concessions reluctantly made by His Majesty's government, but as measures which they regard as conducive, if not essential, to the welfare of the province, and to the maintenance of a good understanding between the inhabitants of New Brunswick and the parent state.

I have, &c.

*Sir A. Campbell.*

(Signed)

GLENELG.

&c. &c. &c.

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No. 23.—*Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 4th October, 1836.*

I HAVE received your despatch dated the 20th of August last, No. 69, in which you request that authority may instantly be sent to you, first, to make such alteration in the land-granting system as, upon mature consideration, you may think necessary; and, secondly, to dispose, if required, of such portions of the military reserves as appear, by the report of the commanding engineer, not to be required for military purposes.

On the second of these proposals I can express no opinion until I shall have received the report, which I have requested the master-general and the board of ordnance to make to me respecting it. On the first of them I have to make the following remarks:—

If I am to understand this expression in the full sense which the words, unattended by any explanation, would convey, then I must unavoidably decline to accede to it. It is indispensable that the conduct of His Majesty's government respecting the alienation of unsettled lands should be guided by the same general rules in every part of British North America. There are also certain principles on that subject, to the observance of which the faith of the crown is pledged in the most solemn manner, not in Upper Canada only, but in all the adjacent provinces. Amongst these I may mention the following:—that the wild lands of the crown shall not hereafter be the subject of gratuitous donation; that they shall not be alienated, except by open sales by public auction at a fair upset price; that whatever relates to the management of this branch of the public business shall be confided to the executive government; that nevertheless, His Majesty will concur with the local legislature in the enactment of all necessary laws for defining the general rules, by which the executive government must be guided in their execution of this duty; that from the gross proceeds of these sales, the executive government may deduct the charges of management and collection, on condition of rendering an annual account of those charges to the house of assembly; and that, provided a regular charge for the support of the civil government of the colony be by law established, the net proceeds of the sales of crown lands are to be paid into the public treasury, and are not to be issued from it, except in pursuance of some act of the local legislature to be passed for that purpose.



To impart to you any authority for altering the land-granting system, in such a manner as to infringe any one of these principles, would be to retract His Majesty's public and solemn engagements.

What authority it is possible for me to convey to you within those limits I must confess that I cannot perceive.

You urge me to invest you with the most ample discretionary power, with a view to enable you to demonstrate by facts rather than by arguments, that a triumph of constitutional over republican principles in a British colony is productive of good to the country; and, if I correctly understand the subsequent passages of your despatch, the specific good end to which you desire to make the recent elections subservient, is that of increasing the facilities and encouragements to emigrants to settle in Upper Canada, thus destroying the weight of those invidious contrasts which have been drawn between the system of the United States and our own, and in favour of republican to the prejudice of monarchical institutions. The importance of this end, and the wisdom of pursuing it steadfastly, are too clear for discussion; and such is my conviction of your zeal for the King's service, and of your ability to promote it, that if His Majesty's government were unfettered by any positive pledges, and if it were possible to act on different systems in the different provinces of British North America, I should be much disposed to refer the selection of the means to your own judgment. Within the limits which I have already pointed out, I cheerfully admit that the more ample your discretion the greater will be my hopes of success; and if in legislating on the question, the council and assembly should concur in imparting to you large discretionary powers, His Majesty would be happy to give his sanction to laws of that nature; but the principle, that the land-granting system is to be made the subject of local legislation, is beyond the reach of debate.

I have, &c.

(Signed) GLENELG.

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*No. 24.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 31st October, 1836.*

FROM the papers which accompanied my confidential despatch of the 30th ultimo, you will have perceived that I was then engaged with the delegates from the assembly of New Brunswick,

in discussing the provisions of the bill for securing the civil list which it is proposed to grant to His Majesty in that province.

I now transmit to you a copy of that bill, as it has met with the concurrence of Messrs. Crane and Wilmot, and received the sanction of His Majesty's government. I also inclose a copy of the despatch, with which I have accompanied its transmission to Sir A. Campbell. These papers will complete the correspondence which I have already forwarded to you on the subject, and you will have the goodness to consider them as supplementary to my confidential instructions of the 30th ultimo.

I have, &c.

(Signed)

GLENELG.

First Inclosure in No. 24.

NEW BRUNSWICK.

*A Bill for the support of the Civil Government in this Province.*

WHEREAS His most Gracious Majesty has been pleased to signify to his faithful commons of New Brunswick, that His Majesty will surrender up to their control and disposal the proceeds of all His Majesty's hereditary, territorial, and casual revenues, and of all His Majesty's woods, mines, and royalties, now in hand, or which may hereafter, during the continuance of this act, be collected, in this province, on a sufficient sum being secured to His Majesty, his heirs and successors, for the support of the civil government in this province: and whereas we, His Majesty's most dutiful and loyal subjects, the commons of New Brunswick, in general assembly convened, with hearts full of the warmest duty and gratitude, are desirous that ample and liberal provision should be made for the expenses of the said civil government, during the continuance of this act, by charges on all and every of the revenues, now and hereafter to be levied and collected in this province, have therefore freely and unanimously resolved to give and grant unto His Majesty King William the Fourth, his heirs and successors, a certain sum for the aforesaid expenses of the civil government, payable out of the joint revenues of this province:

Be it therefore enacted by his Excellency the lieutenant-governor, legislative council, and assembly, and by the authority of the same, that the proceeds of all and every the said hereditary, territorial, and casual revenues, and the proceeds of all

sales and leases of crown lands, woods, mines, and royalties, which have been collected, and are now in hand, or which shall be collected hereafter, during the continuance of this act (except the monies, which shall be expended in the collection and protection thereof, as specially authorized and provided for by the fourth section of this act), shall immediately be payable and paid to the provincial treasurer, who is hereby authorized to receive the same, for the use of this province; and from and after the expiration of this act, the proceeds of all the said hereditary, territorial, and casual revenues, and of the said lands, woods, mines, and royalties, shall revert to and be payable, and paid to his said Majesty, his heirs and successors.

2. And be it enacted, that there shall be granted to His Majesty, his heirs and successors, for and during the whole period of the continuance of this act, the clear yearly sum of £14,500, current and lawful money of this province, and that the said sum shall be charged on and made payable out of the afore-mentioned, and all other revenues raised, collected, and paid into the treasury of this province; and shall commence from and immediately after the 31st day of December, now last past, and to be paid by the said treasurer, by warrant under the hand and seal of his Excellency the lieutenant-governor, or commander-in-chief for the time being, with preference to all other charges or payments which have heretofore been, or which shall hereafter be made upon or payable from the said revenues, such payments to be made quarterly (that is to say), on the 31st day of March, the 30th day of June, the 30th day of September, and the 31st day of December in each and every year, by equal and even portions, out of the monies in the said treasury; the first charge for the same to be made on the quarter day next immediately after the passing of this act, and to include the proportion of the said sum which may become due, for the support of the said civil government, by the said quarter day.

3. And be it enacted, that all the monies which shall be paid to the provincial treasurer, under and by virtue of this act, except the said sum of £14,500 hereby granted, shall remain in the treasury until appropriated, or disposed of by an act or acts of the general assembly of this province to be passed for that purpose.

4. And be it enacted, that it shall and may be lawful for his Excellency the lieutenant-governor and commander-in-chief



for the time being, by and with the advice of the executive council, to expend out of the gross proceeds of the said hereditary, territorial, and casual revenues, and of the said sales and leases of crown lands, woods, mines, and royalties, such sums of money as they may from time to time deem necessary and requisite for the prudent management, protection, and collection of the said revenue; and that his Excellency the lieutenant-governor and commander-in-chief for the time being shall, within fourteen days next after the commencement of each and every session of the legislature, cause to be laid before the assembly a full and detailed account, stating all the particulars of the income and expenditure of and relating to the said hereditary, territorial and casual revenues, sales, and leases of crown lands, woods, mines, and royalties, with all vouchers to the same appertaining, for the then previous year.

5. And be it enacted, that all and every grant, lease, or other assurance which, during the continuance of this act, shall be made or granted by His Majesty, his heirs or successors, of any lands, tenements, rents, woods, mines, royalties, revenues, or other hereditaments within this province, now belonging or hereafter to belong to His Majesty, his heirs or successors, whereby any estate or interest whatsoever, in law or equity, shall or may pass from His Majesty, his heirs, or successors, save and except as hereinafter provided, shall be utterly void and of none effect, unless such grant, lease, or assurance be made, upon sale or rent, to the highest bidder at public auction in this province, due notice having been first given thereof in the Royal Gazette, and unless all such sums of money and rents as may be payable in consideration of such grant, lease, or assurance be made payable to His Majesty, his heirs, or successors, during the whole term or time of the continuance thereof respectively.

6. And be it enacted, that nothing in this act contained shall extend or be construed to extend in anywise to impair or affect any rights or powers of control, management, or direction which have been or may be exercised, by the authority of the crown or other lawful warrant, relative to any suits or proceedings for the recovery of the said hereditary, territorial, casual, and other revenues, or to compositions made or to be made on account of any of the same, or to any remission, mitigation, or pardon of any penalties, fines, or forfeitures incurred or to be

incurred, or to any other lawful act, matter, or thing which has been or may be done, touching the said hereditary, casual, territorial, or other revenues, or to disable His Majesty, his heirs and successors, to make any grant or restitution of any estate or estates, or of the produce thereof, to which His Majesty hath or shall become entitled by escheat for want of heirs, or by reason of any forfeiture, or by reason of the same having been purchased by or for the use of any alien, or to make any grant or distribution of any personal property, and devolved to the crown by reason of the want of next of kin or personal representatives of any deceased person; and that the said rights and powers shall continue to be used, exercised, and enjoyed in as full, free, ample, and effectual manner, to all intents and purposes, as if this act had not been made, and as the same have or might have been heretofore enjoyed by the crown, subject, nevertheless, to the restrictions and regulations hereinbefore made and provided: it being the true intent and meaning of this act, that the said rights and powers shall not be in any degree abridged or restrained or affected in any manner whatsoever, but only that the monies arising from the full and free exercise and enjoyment of them, so subject as aforesaid, shall, during the continuance of this act, be carried to and made part of the joint revenues at the disposal of the general assembly of this province.

7. And be it further enacted and declared, that nothing in this act contained shall operate to annul or prejudice any sale, purchase, grant, lease, enfranchisement, exchange, contract, rent-charge, agreement, bond, mortgage, security, exoneration, or other act, matter, or thing relating to the said lands, woods, mines, or royalties which at the time of passing this act, shall have been made, done, given, effected, or created, but the same shall remain as good, valid, and effectual for the benefit or security either of His Majesty, his heirs or successors, or of any of the parties to, or with whom or in whose favour any such sale, grant, lease, enfranchisement, exchange, contract, rent-charges, agreement, bond, mortgage, security, exoneration, or other act, matter, or thing shall have been made, done, given, effected, or created, and be of as full force and virtue as if this act had not been passed.

8. And be it further enacted, that this act shall continue and be of full force and effect for and during the full and com-

plete term of ten years, commencing from and immediately after the 31st day of December, in the year 183 last past.

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Second Inclosure in No. 24.

SIR,

*Downing-street, 31st October.*

IN my despatch of the 10th of September, I apprised you that I was engaged in corresponding with Messrs. Crane and Wilmot on the provisions of the act for securing the civil list, which it is proposed to grant to His Majesty in New Brunswick. I now inclose for your information, a copy of that bill, which has been prepared in concurrence with the lords commissioners of His Majesty's treasury. It is compiled from the corresponding acts of parliament which apply to the grant of the civil list in this country, with no other changes than such as unavoidably grew out of the different circumstances of the two cases.

You will transmit to the council and to the assembly a copy of this despatch and of the draft which it incloses. You will acquaint those branches of the provincial legislature, that you are authorized in His Majesty's name to assent to any bill which shall be tendered for your acceptance, if framed in the terms of the accompanying draft, or even if expressed in other terms, which shall introduce no substantial alteration in the provisions of the proposed law. Should any bill be passed by the two houses, having for its object the adjusting of the civil list, in terms varying from those which have been approved by myself, by the lords of the treasury, and by the delegates from the assembly, you will call on the provincial attorney and solicitor-general, to report to you whether the change is such as to alter in any respect, the substance and the legal effects of the intended measure. If they should report that the alterations are formal, merely, and not substantial, you will assent to the bill on His Majesty's behalf; but if the law officers of the crown should report that the variations affect the substance, as well as the form, then it will be your duty to withhold your assent, unless the bill should contain a suspending clause, or unless the operation of it should, by the terms of the law itself, be postponed for a period of at least five months, so as to enable His Majesty to interpose on the subject, before the new law could actually take effect within the province.

It is my earnest hope that the provincial legislature will



adopt and pass this bill without any change, either of substance or of form, because I am anxious to preclude even the possibility of dissension upon an occasion on which His Majesty is justly entitled to indulge the expectation that his efforts to adjust these questions on the most liberal basis, will be met by cordiality and confidence on the part of the representatives of his provincial subjects.

It may be right to observe that the funds appropriated for the civil list are, in this draft, made issuable on the warrant of the governor alone, without requiring the advice and consent of the executive council. I am aware, that this is at variance with the customary form of legislation on such subjects in New Brunswick; but it is in strict accordance with the practice of this country, and is therefore preferred, as maintaining the required analogy between the two cases. If the law should be passed in this form, it would still be competent to His Majesty to require that, in the exercise of the powers thus to be confided to his local representative, the governor should always consult the executive council, and His Majesty would accordingly issue to yourself instructions to that effect, applying to all cases except those, which, however improbable and extreme, are yet possible in theory,—cases, namely, of an unreasonable and contumacious refusal on the part of the council to concur in sanctioning the necessary warrants on the treasury.

I have, &c.

*Sir A. Campbell.*

(Signed) GLENELG.

*No. 25.—Lord Glenelg to Sir F. B. Head, K. C. H.*

SIR,

*Downing-street, 31st October, 1836.*

I THINK it right to place you in possession of a copy of a letter which has been addressed to Viscount Melbourne by Mr. Hume, complaining of your conduct in the recent elections in Upper Canada, and of my refusal to give to Mr. Baldwin and Dr. Duncombe, an opportunity of personally stating their grievances. I also transmit to you a copy of the reply which I have directed to be returned to Mr. Hume's letter.

The charges which Mr. Hume has preferred against your administration, appear to be only a repetition of what you have already been called upon to answer. But I transmit to you the inclosed correspondence, in pursuance of the principle on which

I have hitherto acted, of giving you ample opportunity of meeting every attack which may be made on your character and conduct, and of guarding at the same time against all misapprehension of the nature of the communications which may pass between this department and private individuals on the subject of your government.

I have, &c.

(Signed) GLENELG.

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First Inclosure in No. 25.

MY LORD,

*Worthing, 3rd October, 1836.*

WHEN I last had an interview with your lordship, I requested your attention to the state of Upper Canada, and to the extraordinary proceedings of Sir Francis Head, during the late general election.

I request you will have the goodness to present to His Majesty the inclosed memorial from the inhabitant householders of the incorporated counties of Lenox and Addington in Upper Canada, complaining of the interference of Mr. Hagerman, the attorney-general, at elections there, contrary to the express instructions of Lord Ripon, and against the freedom of elections.

It is with deep regret I complain of the conduct of Lord Glenelg to the agents of the reformers from Upper Canada, in having refused to give an interview either to Mr. Baldwin, a member of the late executive council, or to Dr. Charles Duncombe, member for Oxford, in the new house of assembly of that province, although they came 4,000 miles, deputed by their colleagues, on purpose to explain to His Majesty's government the conduct of Sir Francis Head, the lieutenant-governor, and of other public officers in that province.

I most earnestly requested his lordship to grant an audience to these gentlemen, as they had requested; but he refused those applications, and thereby behaved to them in a manner which I greatly regret.

It appears that Sir Francis Head has put down the reformers in Upper Canada by giving his official support to the tories and orangemen; and he has acted, by fabricating votes after the elections had been begun, to overpower the old electors, contrary to the rules laid down by the preceding colonial secretaries, and in violation of the rights of the people.

Mr. Baldwin and Dr. Duncombe will both return to Canada and communicate to their countrymen that they have been not only refused redress to their complaints, but have been refused

by the colonial office an opportunity of personally stating their grievances.

I trust such conduct will not be countenanced by the British parliament, from whom alone, after such conduct, the people of Upper Canada can expect to obtain justice.

I cannot believe that your lordship is acquainted with the state of affairs in Upper Canada, and with the conduct of Sir Francis Head, or you would not approve of the proceeding of the colonial office towards these agents from the province; conduct which appears to me calculated to drive the people to desperation.

I hope His Majesty will, according to the prayer of the petitioners, direct immediate inquiry into the complaints stated in their memorial.

I have, &c.

*Viscount Melbourne.*

(Signed) JOSEPH HUME.

&c. &c. &c.

Second Inclosure in No. 25.

SIR,

*Downing-street, 21st October, 1836.*

I AM directed by Lord Glenelg to acquaint you, that Viscount Melbourne has transmitted to his lordship your letter of the 3rd instant, on the subject of the proceedings of Sir F. Head during the late general election for the house of assembly of Upper Canada.

Lord Glenelg is of opinion, that as a more convenient occasion than the present will probably, ere long, offer itself for discussing the policy pursued by His Majesty's government in relation to the affairs of Upper Canada, it could answer no useful purpose to enter into any correspondence on that question; his lordship, however, avails himself of the opportunity afforded by your communication to Lord Melbourne for the purpose of correcting some misapprehension into which you appear to have fallen, as to the occurrences which have drawn forth your animadversions.

Your letter describes Mr. Baldwin and Dr. Charles Duncombe as agents of the reformers from Upper Canada, and as having been deputed by their colleagues on purpose to explain to His Majesty's government the conduct of the lieutenant-governor and of other public officers in the province; and you state that Lord Glenelg refused to give an interview to either of those gentlemen, although it was most earnestly requested by yourself on their behalf. You add that they will both return to



Canada, and communicate to their countrymen that they have been not only refused redress to their complaints, but have been refused by the colonial office an opportunity of personally stating their grievances.

In reference to the preceding statements, Lord Glenelg directs me to remind you that on the 19th of August last, you presented to the house of commons a Petition from Dr. Charles Duncombe, a member of the assembly of Upper Canada, impugning the conduct of Sir Francis Head in the recent general election of the province, and laying to his charge various matters of high criminality.

On that occasion, I stated in my place in the house, that Lord Glenelg would call upon the lieutenant-governor for such explanations as he might be able to offer of the accusations so preferred against him.

On the 16th of June you transmitted to Lord Glenelg a letter to yourself from Mr. Baldwin, in which that gentleman offered various suggestions for the consideration of His Majesty's government respecting the conduct of the public affairs in the province. But neither in your own letter, nor in that of Mr. Baldwin himself, was that gentleman represented as the agent of any person in the province, or as having been deputed by any one to proceed to this country; on the contrary, in the very commencement of Mr. Baldwin's letter to you, are to be found the following expressions: "As I informed you verbally on Saturday last, I am *not* the agent for the petitioners:" "being now in London, I do not feel that I would be justified in withholding my opinion on the present alarming state of affairs in that colony."

With respect to the character of Dr. Duncombe, as the agent or deputy of any persons in the province, it is true that in your letter to myself, of the 19th of August, you state that gentleman to have come to England at the request of the reformers of Upper Canada, but Lord Glenelg does not find in any other document a suggestion that Mr. Duncombe was deputed by his colleagues to repair to this country. So far as the correspondence in this office extends, there is nothing to show that Dr. Duncombe ever laid claim to the character which is ascribed to him in your letter to Lord Melbourne. He presented himself to His Majesty's government in the character of a member of the provincial assembly, but as invested with no other public trust.

It is perfectly true that Lord Glenelg declined to admit either Mr. Baldwin or Dr. Duncombe to a private interview. But it is no less true that immediately on receiving the intimation of their wish to make communications to His Majesty's government, relating to the public interests of the province, his lordship invited those gentlemen to make their statements in writing. A written statement was accordingly made by Dr. Duncombe on the 20th of September, and within two days afterwards it was transmitted to Sir F. Head for his answer.

Lord Glenelg claims for himself the right to consider and to decide in each case, as it arises, whether the public interest and the ends of justice will be best promoted by oral or by written communications. In the present case, his lordship found ample reasons for the opinion that it was expedient that the statements of Messrs. Baldwin and Duncombe should be reduced into writing. They were avowedly designed to criminate various public officers; nor can Lord Glenelg think that any man is entitled to complain, that in assuming the character of a public accuser he is required to prefer his charges in that form in which alone they can be deliberately made, distinctly understood, and subjected to a full investigation.

I have, &c.

*Joseph Hume, Esq.*

(Signed)

GEORGE GREY.

*No. 26.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 29th November, 1836.*

I HAVE received your despatch of the 12th September, No. 72, inclosing a memorial addressed to myself by Mr. George Ridout, dated on the 12th of the preceding month of August, in which Mr. Ridout appeals to His Majesty's government against your removal of him from the offices of colonel of the militia, judge of the district court of Niagara, and justice of the peace.

In deliberating on the advice which it became my duty to submit to the King on this occasion, I have thought myself obliged to exclude from my consideration every ground which has been alleged in defence of your proceedings against Mr. Ridout, which was not assigned by yourself in your correspondence with that gentleman. In general, I should consider it unjust to subject any man to humiliation and punishment for reasons which he has not had an opportunity of controverting;

but in Mr. Ridout's case there are peculiar motives for adhering to this principle. In his letter of the 27th July, he combated both by argument and by evidence, the single charge preferred in your private secretary's letter, and then proceeded as follows: "If, however, at this late period, your Excellency has any other reasons than those given, which have been hitherto kept back, I am willing to allow them every weight, nor shall I attempt, when informed of their existence, to suppress or lessen their just influence with His Majesty's government in the statement which I am about to forward." Thus distinctly apprized that Mr. Ridout proposed to appeal against your decision, and with so unequivocal a demand for an opportunity of repelling every accusation which you might design to bring against him, I think that you were reduced to the alternative either of disclosing to him all the grounds of your proceeding, or of leaving the appeal to be decided by His Majesty upon those grounds exclusively, which you had so disclosed.

Adverting then to the only charge against Mr. Ridout, of which he was apprized in your private secretary's letter of the 1st July, I find it to have been, that he was an active member of a society by which a very objectionable address had been widely circulated. Mr. Ridout does not deny either that the address was indefensible, or that it had been widely circulated, or that it originated with the society in question. But he does, in the most positive terms, deny that he was a member of that society, or that he had ever seen the address until it met his eye in a printed form, in the course of its circulation through the province, or that he was in any sense responsible for it, either as author or as publisher. To these peremptory contradictions of the facts alleged against him, he adds, that he attended at the meeting at which the society in question was established, and opposed its formation on the principles contained in the resolutions brought forward by its author. This statement is corroborated by the affidavit of Mr. Stuart, who states himself to have been present on the occasion.

Such is the state of the question as it is presented to me by your despatch and its inclosures. I have sought in vain for any proof that Mr. Ridout was a member of this society, or that he in any manner partook in the publication of the objectionable address. I am compelled therefore to come to the conclusion, that the charge is not only unsupported by proof, but that to a



great extent, it is actually disproved, as it is in every point directly contradicted.

But, in the absence of evidence as to the fact, you have referred me to the legal opinion of the solicitor-general of Upper Canada, who states that Mr. Ridout most decidedly did appear to be an active member of the said society. It will of course not be ascribed to any want of respect towards Mr. Hagerman, if I observe, that I do not understand why any legal reference is necessary in this case. The question involves no legal principle, but relates to a simple matter of fact. Mr. Stuart, though describing himself as a carpenter, is, I think, far more entitled to speak with authority on this occasion than the solicitor-general of the province, because the former possesses, and the latter does not possess, a personal acquaintance with what actually occurred, and because Mr. Stuart was present and Mr. Hagerman was absent when the society was formed, and when Mr. Ridout is said to have protested against its formation.

It is with the deepest reluctance that I overrule a decision publicly adopted by you, especially in a case of the present nature. I have on every occasion felt, and, as I trust, have evinced the utmost solicitude to afford you all the support and countenance in my power in the discharge of your arduous duties; but it is superfluous to say, that every consideration must yield to the irresistible claims of justice, and, for the reasons which I have mentioned, I find it impossible to dispute Mr. Ridout's pretensions to be reinstated in his various offices. I have accordingly to convey to you His Majesty's commands that Mr. Ridout should be permitted to resume the various employments from which he has been removed. I refer to your own judgment the mode of proceeding to carry these instructions into effect. It will afford me most sincere pleasure if you should be able to reconcile the prompt and complete execution of them, with the protection of your own authority from the danger to which, I am well aware, it may be exposed by the measure which I am thus compelled to adopt.

I have, &c.

(Signed) GLENELG.

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*No. 27.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 29th November, 1836.*

I HAVE to acknowledge the receipt of your despatch of the

13th October, No. 81, announcing that in conformity with the instructions contained in my despatch of the 25th July, No. 73, you had appointed Mr. John Macaulay to the office of surveyor-general of Upper Canada, until His Majesty's pleasure should be known. In reply, I have the honour to inform you that His Majesty has been graciously pleased to approve and confirm this appointment.

With reference to the concluding paragraph of your despatch, and to the letter inclosed in it from Captain Macaulay, I must take this opportunity of observing, that until that gentleman's arrival in this country, I had no reason to suppose that his resignation of the office of surveyor-general had been otherwise than absolute and unconditional. I much regret that any misapprehension on this subject should have existed, especially as I am informed that so confident was Captain Macaulay's expectation that his resignation would not be accepted, that he sold his commission in the engineers in order to qualify himself to reside in Upper Canada, and there to discharge the duties of surveyor-general. Deeply as I am concerned to find that Captain Macaulay should have been involved in so very serious a loss, by his reliance on the intentions which he supposed His Majesty's government to entertain in his favour, I must disclaim all responsibility for an error to which no act of mine had given any countenance. I have, &c.

(Signed) GLENELG.

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*No. 28.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 3rd January, 1837.*

IN reviewing the series of despatches which I received from you in the year 1836, in order to ascertain how far they had received a complete answer, I have found in your despatch of the 29th July, No. 64, a passage to which I regret that my attention has not been sooner directed. It relates to your intention of withholding your assent from any road bills, in which the commissioners shall be appointed by name for the expenditure of the money to be raised under them. I am not insensible to the dangerous tendency of this mode of legislation, nor do I doubt that the power it confers on the majority of the assembly is unconstitutional, or that it may be converted to selfish and unworthy purposes; on the other hand, I do not desire to claim this patronage for the crown, or rather for the local go-

vernment. This would be to provoke much reasonable jealousy without any compensatory advantage, nor do I think that your proposal, in its unqualified form, could be safely adopted as the invariable rule of action. There is a middle course, the adoption of which, by the house, would avoid all these difficulties : it is, that the nomination of commissioners for local works should be made by the freeholders of the counties or townships through which such works are to be carried. You will consider whether this principle could not be advantageously affirmed by some general law for regulating the mode of appointing commissioners for local improvements under provincial statutes. If this shall appear impracticable, then you will endeavour to obtain the introduction of this rule into each successive act of the kind, but should the legislative bodies persist in the practice which they have already pursued, you will abstain from refusing your assent to their acts on that ground, unless some case should present itself in which the abuse you reasonably apprehend should be, not matter of surmise, but clearly and indisputably established. I have, &c.

(Signed) GLENELG.

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*No. 29.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 4th January, 1837.*

REFERRING to the question proposed in your despatch of the 30th July last, No. 65, out of what funds you should defray the expense of your late tour of inspection through the province of Upper Canada, I have to return the following answer :—

This is one of the contingent charges of your office, and every year must of course produce some exigencies which it is impossible to foretel with certainty, or to provide for by a special appropriation beforehand of public money ; consequently, it is convenient that there should be a general allowance made at the commencement of each year for such contingencies, and that they should, if possible, be confined within the bounds of that allowance. Occasional exceptions to this rule must be considered and disposed of as they arise.

In my recent arrangements with the province of New Brunswick, communicated to you in my despatch of the 30th of September last, special provision is made for these annually recurring contingencies ; and the establishment of a similar rule in Upper



Canada, with the sanction of the local legislature will, I trust, obviate any difficulty of this kind for the future; but, with regard to the specific expense to which you refer, it will be deducted from the fund to which your predecessors have been accustomed to resort for defraying the contingent charges of their government. Until some new arrangement shall be finally made with the assembly, it is necessary that the ancient practice should be followed. As you have not yet stated what has been the amount of this charge, I can of course neither express any opinion nor convey to you any authority upon that part of the question.

I have, &c.

(Signed) GLENELG.

*No. 30.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 6th January, 1837.*

I HAVE had the honour to receive your despatch of the 7th of last November, No. 87. That communication, on the very unusual tone and character of which I will not remark, contains various complaints of the conduct of His Majesty's government, to which satisfactory replies could easily be given; but in the first place, I beg to bring to your recollection the following passage from my despatch to you, dated the 22nd March, 1836:—

“Before I pass to the particular subjects to which you have thus called my attention, I would avail myself of this commencement of our official correspondence, as a fit opportunity for explaining the spirit in which I am anxious that it should be conducted. It is impossible that I should place implicit confidence in my own conclusions respecting passing events in Upper Canada, as they are successively reported to me. Although I do not regard a personal observation of such occurrences essential to a correct understanding of their character and tendency, yet at this distance from the scene, it is often unavoidable that my judgment on such matters should, for a considerable time, be suspended. During any such interval, I anticipate great relief and support from the reliance which I am happily entitled to repose in your discretion. I shall, however, offer for your solution, any doubts which may suggest themselves to me, with perfect unreserve, and without yielding to the fear that you will ever misconstrue such inquiries into an

expression of distrust or of unavowed disapprobation. In the pursuit of the great object which we have in common, you will, I am sure, agree with me, that our official intercourse should be characterised both by entire frankness and by mutual confidence, and that on either side the most indulgent and favourable construction should be given to every expression which may be susceptible of more than one meaning."

To proceed now to your despatch immediately before me.

You complain of the time which was allowed to elapse before you were made acquainted with the views taken by His Majesty's government, respecting Captain Macaulay's appointment to the surveyor-generalship; respecting the dismissal of the executive council; and respecting the loyal addresses which you had received.

Without entering into details on each of these points, which appears to me unnecessary, I have only to observe that the delay was not occasioned by any indifference to your feelings or position. My opinions on the subjects in question were formed on a mature consideration of the circumstances, and were communicated to you at the times and in the manner which seemed to me the most advantageous to the public interests, and also the least likely to produce any unpleasant impression on your own mind.

You quote from my despatches various detached passages, in which I have at different times recorded my dissent from your judgment, and my opinion that some of your measures were ill-advised; and you complain of the plain avowal of these my sentiments, as a breach of what is due to you. In answer, I observe, that I cannot, without a sacrifice of duty, forbear to exercise, according to my discretion, the right of communicating to you frankly and unreservedly, my sentiments on questions connected with your official proceedings. It is with pleasure I take this opportunity of adding, that the exercise of this right has, in respect to your government, been usually an agreeable task to me; since the sentiments which I have been called upon to express, as to the general course and tenor of your administration, have been those of cordial approbation.

The only remark, in detail, which I make, refers to the case of Mr. Dunn, respecting which I would simply state that it was far from my intention to impute to you a meaning not your own; and that I cannot see the distinction between withdrawing

a recommendation to continue a public officer in his place, and advising his removal from it.

It remains that I should notice one or two other passages of your despatch of the 7th November.

I signified to you His Majesty's gracious purpose to elevate you, at your own earnest solicitation, to the dignity of a baronet, informing you, however, that the accomplishment of it should be delayed only till you should return an answer, which I did not doubt would be complete, to certain charges preferred against you in parliament. While you acknowledged this promise, your despatch to which I am now replying, contained no allusion whatever to Dr. Duncombe's charges. From this omission, I was at first apprehensive that I might have failed to express myself with sufficient clearness. A reference, however, to the terms of my despatch of 8th September last, at once satisfied me that such was not the case; and the receipt of your subsequent despatch of the 23rd November, in which you inform me that a copy of Dr. Duncombe's charges had not reached you until the 20th of that month, renders any further observation on this point wholly unnecessary.

I will only add, that I approve of the step which you took in referring that gentleman's charges to the house of assembly, and of your intention to reply to them yourself, as soon as the necessary materials could be collected.

It will afford to the government sincere gratification to receive, and lay before the house of commons, your answer to the charges preferred against you by Dr. Duncombe, in his petition to that house.

I conveyed to you His Majesty's instructions respecting the financial arrangements to be made in Upper Canada. You engage, as I understand, to fulfil them, but tender the resignation of the promised baronetcy, if I insist on your adoption of my opinions, as to the policy of those instructions. It can be scarcely necessary to disclaim any wish to exact of you, as the condition of an honorary reward, a conformity not to my instructions, but to my judgment. Your opinions are and must be your own. It is, therefore, wholly unnecessary, that you should on that ground relinquish the baronetage.

I cannot conclude this despatch without expressing my earnest wish, that in the official relation in which we stand to each other, there should be an entire absence of any feeling of sus-



picion and distrust, which, while I utterly disclaim it on my own part, I cannot but regret to perceive in some of your official communications,

I have, &c.

(Signed) GLENELG.

*No. 31.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 26th January, 1837.*

I HAVE had the honour to receive your despatch of the 28th October last, No. 86, inclosing a memorandum on the present political state of the Canadas. I beg you to accept my thanks for your communication, which will not fail to receive the mature consideration of His Majesty's government, although at the present moment it would, for obvious reasons, be inconvenient to enter into a correspondence on the subject.

I have, &c.

(Signed) GLENELG.

*No. 32.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 27th January, 1837.*

I HAVE the honour to acknowledge your despatch of the 6th November, No. 89, reporting the result of your efforts to obtain from Messrs. Bidwell and Rolph, copies of the letters addressed by those gentlemen to myself, and referred to in my despatches Nos. 75. and 76.

As Mr. Bidwell has declined, and Dr. Rolph has omitted, to communicate to you the representations which they had made to His Majesty's government, respecting your conduct, it is unnecessary any further to advert to them, except to assure you, that under such circumstances, they cannot have any influence on my opinion of your conduct. Your explanation respecting the charges contained in Mr. Baldwin's letter of 26th July, and in that from Mr. Morrison of 29th April, appears to me satisfactory, and I have already conveyed to you my approbation of your having referred to the house of assembly, Dr. Duncombe's petition to the house of commons.

I have, &c.

(Signed) GLENELG.

*No. 33.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 28th January, 1837.*

I HAVE had the honour to receive your despatch of the 27th July, No. 62, reporting the appointment of Mr. Robert Baldwin Sullivan to be commissioner of crown lands, and agent for the sale of clergy reserves, in the place of Mr. P. Robinson. I have hitherto delayed replying to that despatch, because the question of the land department in Lower Canada having been brought under my consideration by a despatch from the Earl of Gosford, and by a report from the commissioners of inquiry, I had expected before this time, to have been able to adopt some general arrangement applicable to all the North American colonies, by which the delay and expense now attending the passing of patents to land might be reduced, and, at the same time, the general efficiency of the department promoted. It has not, however, been possible as yet, finally to complete such an arrangement, and as you have announced your intention, at an early date, to report to me on the regulations for the disposal of land, as far as regards Upper Canada, I have abstained in the interval from definitively introducing any alterations in the existing system. I am therefore at present unable to inform you of the footing on which this office may ultimately be placed, and I cannot consequently confirm Mr. Sullivan's appointment absolutely. I am anxious, however, no longer to delay my approbation of your selection of that gentleman, for the office of commissioner of crown lands, and for the sale of clergy reserves, although he must be considered as only holding the appointment provisionally, and subject to any regulation which His Majesty's government may adopt, either as to the nature of his duties or the amount of his official income, and on the distinct understanding, that in the event of any change being made in the functions or emoluments of the office, no claim for compensation will be admitted. Should Mr. Sullivan's appointment ultimately be confirmed, it will be necessary that he should authorize an agent to pay to the cashier of this office the usual charges upon the warrant, under His Majesty's sign manual, authorizing you to make a grant to him of the offices in question under the great seal of Upper Canada.

In conveying to you my sanction of your choice of Mr. Sullivan, and in thus assuring that gentleman of the favourable light in which I view his public services as reported by you, I must

guard myself against being supposed to pronounce an opinion on the expediency of combining a seat in the executive council with these employments; that is a question which I wish to reserve for future consideration, and to the settlement of which, at the proper time, I desire to come completely unfettered.

I have, &c.

(Signed) GLENELG.

*No. 34.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR, *Downing-street, 31st January, 1837.*

I HAVE received and have laid before the King your despatch of the 14th December last, No. 100, announcing that you had proceeded to the legislative council chamber to give your assent in person to a bill to provide for the support of the civil government, which had passed both houses of the legislature of Upper Canada, and reporting the terms in which this bill was presented to you by the speaker of the house of assembly. His Majesty commands me to express the satisfaction with which he has perceived the sentiments of loyalty to him, and of confidence in your administration, contained in the address of the speaker of the assembly; and it has been a source of gratification to His Majesty to find that his loyal subjects of Upper Canada will, by the liberality of the provincial legislature, be relieved from the inconveniences consequent on the refusal of the usual supplies to His Majesty's government during the preceding session.

I have, &c.

(Signed) GLENELG.

*No. 35.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR, *Downing-street, 26th February, 1837.*

I HAVE to acknowledge the receipt of your despatch of the 13th January, No. 104, announcing the result of the municipal elections for the city of Toronto. I have perceived with much satisfaction that these elections have terminated in such a manner as to testify, on the part of the inhabitants of that city, their confidence in your policy, and their approbation of the measures which you have adopted to promote the general welfare of His Majesty's subjects in Upper Canada.

I have, &c.

(Signed) GLENELG.



No. 36.—*Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR, *Downing-street, 2nd March, 1837.*

I HAVE received your despatch dated the 30th December last, No. 103.

On the present, as on former occasions, I pass over without remark, the tone in which your remonstrances against the measures of His Majesty's government are written, and confine myself to those questions which are practical, and to which it is necessary that I should advert.

1st. I approve your decision not to suppress His Majesty's order in council, confirming the twelve bills passed by the council and assembly of Upper Canada, in the session of 1835-6. To have taken such a course would have been to incur a very grave responsibility, without even the chance of any ultimate benefit. I need hardly observe, that an order in council, made by the King in the exercise of the legislative powers conferred on His Majesty by the constitutional act of 1791, is a measure of the most solemn and irrevocable nature.

I find in your despatch of the 30th of December nothing which induces me to regret the advice which I tendered to His Majesty on that subject.

2nd. You complain that in my despatch to Sir Archibald Campbell, of the 30th of September last, I stated that the executive council of New Brunswick was to be increased in number, and henceforward to be composed of individuals "possessing the confidence of the people." It is, I am sure, from inadvertence merely that you have quoted that despatch inaccurately; but the effect of your quotation is such as to alter materially the real sense of the passage to which you have thus referred. My language was as follows:—"You will immediately report to me the names of several gentlemen whom you may think most eligible for seats in His Majesty's executive council. In making your selection, you will not confine yourself to a single class or description of persons, but will endeavour to insure the presence, in the council, of gentlemen representing all the various interests which exist in the province, and possessing *at the same time* the confidence of the people *at large*."

You have attached to these words a meaning widely different from that which they are intended to express. According to you, they concede the demand which was made by the late executive council, and which was justly refused by you as un-

constitutional. This is assuredly not the case ; my words, when fully transcribed, merely state that, although each separate interest was to be, if possible, represented, yet that the gentlemen to be selected from each should be such as possessed the confidence, not exclusively of their respective sections of society, but also of the people at large. I presume you do not mean to deny the propriety of such a regulation ; if, however, such be your meaning, I am unable to agree with you.

3rd. You argue at great length to prove, that the laws which will be established, respecting the disposal of the crown lands, will deliver over that extensive property to the rapacity of interested men. I shall not deny that such a consequence might follow from the enactment of such a law as you have mentioned ; but I have certainly not imparted to you any authority whatever to assent on His Majesty's behalf to such a law, nor, with my present information, could I advise the King to confirm such an act, if assented to by you. While I have never doubted the impolicy of surrendering the right of regulating the disposal of the crown lands to one, or even to both branches of the provincial legislature, uncontrolled by the ordinary and constitutional exercise of the royal prerogative, I am fully prepared to justify the wisdom, and even to prove the necessity of acquiescing in the establishment, by laws originating in the province itself, of the general principles by which the executive government is to be guided in the alienation of the unsettled lands of the crown ; but I have never abandoned, or intended to abandon the undoubted right of the King to prevent the introduction of any such principles as may be hostile to the interests of the present inhabitants of the province, or to others of His Majesty's subjects who may be desirous to settle there.

Indeed, as any such act must be laid before parliament, before it can be confirmed by the King, we possess every security against such abuses which the nature of the case admits.

As you have not pointed out any particulars in which the spirit of the instructions, which you had on quitting England, has been departed from in any subsequent communications which I have had the honour of addressing to you, I do not feel it necessary to say more, with reference to the latter part of the present despatch than that, while the vigour and firmness which you have displayed in the administration of the affairs of Upper Canada has merited, and received the approbation of His

Majesty, I can scarcely believe that you seriously intend to assert that the measures of your government should necessarily be stern and unconciliating. No principle, indeed, which ought to be maintained should be sacrificed to a temporary popularity; yet to conciliate the good-will and attachment of the great body of the people, and thereby to strengthen the bond of union between this country and the Canadas, is the great object of His Majesty's government, and one which, I trust, I am correct in believing that you will not suffer yourself to consider as of slight importance.

I have, &c.

(Signed)

GLENELG.

*No. 37.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 27th March, 1837.*

I HAVE the honour to acknowledge your despatch of the 4th February last, No. 6, and in reply, I beg to refer you to my despatch of the 28th January, No. 135, in which I have explained the grounds of the delay in approving of the appointment of Mr. R. B. Sullivan to be commissioner of crown lands, and agent for the sale of clergy reserves in Upper Canada, and the terms on which alone it has hitherto been in my power to confirm him in those offices.

I have, &c.

(Signed)

GLENELG.

*No. 38.—Lord Glenelg to Sir F. B. Head, K.C.H.*

SIR,

*Downing-street, 5th April, 1837.*

I HAVE received your despatch of the 6th of February last, No. 13, on the case of Mr. Ridout. In order to explain clearly the view which I have taken of this subject, I must begin with a short retrospect of what has hitherto occurred, although it will perhaps involve me in the repetition of some statements already addressed to you.

Mr. Ridout's dismissal from his offices was communicated to him on the 12th of July last, in letters written to him by your secretary, and by the adjutant-general of the militia. In your secretary's letter this measure was attributed to the circumstance that Mr. Ridout was, as it appeared, a member of the constitutional reform society of Upper Canada, by and on behalf of which had been circulated the printed address to which reference was there made. The adjutant-general's letter stated that Mr. Ridout was deprived of his commission in the militia, for the reasons mentioned in your secretary's letter.



On the 14th of July, Mr. Ridout transmitted to your secretary an answer denying that he was a member of the society in question, or that he had ever seen their address until it was in circulation, in print, through the city of Toronto. His answer to the adjutant-general suggested, that the real cause of his dismissal was a vote which he had given at the general election. The adjutant-general replied by contradicting the truth of this surmise.

On the 22nd of July, Mr. Ridout announced to you his intention to bring his case under the notice of His Majesty's government, and made an application to be furnished with an explanation of any other reasons for your conduct which might have been kept back. No notice having been taken of this letter, he placed in your hands, for transmission to this country, his petition of the 12th of August, in which he offered to prove that he had refused to connect himself with the constitutional reform society, because he disapproved of its constitution. He attached to that document the affidavit of Alexander Stuart, in which the deponent confirmed Mr. Ridout's statement, alleging that he was present at the formation of the society, and heard Mr. Ridout oppose that measure.

In your despatch of the 12th of September, you inclosed the preceding correspondence, and imputed to Mr. Ridout various acts of misconduct to which that correspondence contained no allusion.

In my despatch of the 29th of November, I stated that I had thought myself obliged to exclude from my consideration, every ground alleged in defence of your proceeding against Mr. Ridout, which had not been assigned by yourself in your correspondence with that gentleman. For this decision I gave three distinct reasons: they were, first, that it seemed to me unjust to subject any man to humiliation and punishment for reasons which he has not had an opportunity of controverting; secondly, that Mr. Ridout had combated, both by argument and by evidence, the single charge preferred in your secretary's letter; and, thirdly, that with a view to his appeal to His Majesty's government, he had demanded an opportunity of repelling any other accusation which you might have to bring against him.

In reference to this statement, you have, in your despatch of the 6th February, observed, that in no department of the state, not even in my own office, has it ever been deemed necessary,

or even advisable, that every reason for which an individual is to be relieved from office must be stated to him ; that it may be necessary to remove a public officer for many reasons which it may not be desirable to explain to him ; and that you were expressly absolved from any such necessity by my own instructions to you.

You must permit me to state, unreservedly, that this answer appears to me inadequate. First, I am totally ignorant of the existence, either in this office or in any other department of the state, of any such practice as that to which you refer. I am not aware of so much as a single instance in which a public officer has been dismissed as a punishment, and on the ground of misconduct, without the most explicit disclosure to him of the reasons by which his superior vindicated such an exercise of authority. Secondly, I cannot concur with you in opinion that any man ought to use or to possess such a power over those serving under him. The only difficulty of supporting my opinion on this subject by argument is, that so simple and elementary a principle of justice would rather be obscured than illustrated by a statement of the reasons which instantly suggest themselves in support of it. There are, indeed, official relations of such a nature that it is necessary to confide to the superior officer the right of dissolving them at once, without assigning any cause whatever to the sufferer. Thus, for example, a public officer should be at liberty instantly to remove his private secretary for mere incongruity of habits or temper, or for the want of some peculiar talent or qualification; causes which, in such a relation, are of the utmost weight, but which could scarcely be drawn out into a specific charge or statement. In such cases, this is mutually understood as the necessary condition and tenure of the service. Yet even in this intimate and confidential relation, if the removal should be made avowedly on the ground of misconduct, the superior would be bound, in common justice, to explain unreservedly, in what the imputed fault consisted ; if not, any man's character and happiness might be sacrificed by vague suspicion, and by surmises injurious in proportion to the station and character of the accuser. Thirdly, I cannot allow that the instructions from me, which you have quoted, absolve you from this obligation : on the contrary, I think they clearly impose it upon you ; they declare your responsibility to the king and to parliament. In Mr. Ridout's case, notice was given to you that

an appeal was about to be made to his Majesty. To acquit yourself of the responsibility which I declared you to owe to the King, it became incumbent on you to establish the fact that Mr. Ridout had merited the severe punishment which had been inflicted on him. To substantiate that conclusion, it was necessary to show that he had really been guilty of the offences laid to his charge; and this could be proved only by showing that what he was alleged to have said or done, admitted of no satisfactory explanation; a result which could not be established until an opportunity of making such explanation had been afforded to him. Fourthly, if I could admit that you were entitled to inflict a punishment without a distinct statement to the accused party of the causes which had provoked it, I should yet limit that admission to cases in which an entire silence had been maintained. Instead of this, however, you communicated to Mr. Ridout a single charge, which he contradicted and applied himself to disprove. He was thus, I think, warranted in believing that, if successful in refuting that accusation, his exculpation was complete. Finally, I thought that in what related to the constitutional reform society, Mr. Ridout's defence was conclusive, and I could not therefore but doubt whether he might not have been equally successful in vindicating himself against the other charges, if they had been made known to him.

For these reasons, I adhere to my first opinion, that I was bound to exclude from my consideration every allegation against Mr. Ridout, of which he had not been apprised.

You, however, maintain that your despatch of the 12th of September ought to have satisfied me of the truth of the accusation preferred in your secretary's letter of the 12th of July. Two reasons are assigned for this conclusion: first, I had before me the statement of your own conviction that the charge was well-founded; and, secondly, I knew that you had obtained a legal opinion to the same effect.

It would be more than superfluous to declare my perfect reliance on the accuracy of every assertion of yours, respecting any matter of fact which has fallen within your own personal observation; neither is it necessary to disclaim altogether the idea of impeaching in any degree, the legal knowledge or the talents of the attorney-general; but neither you nor the attorney-general offered yourselves as witnesses to the matter of fact, namely, whether Mr. Ridout was or was not a member of



the constitutional reform society; you laid claim to no personal knowledge of his conduct in reference to that body. The attorney-general was quoted, not as a witness of the fact, but only as an interpreter of the law. Consequently, notwithstanding the strong dissent which you have expressed, I must continue to think that the authority of Stuart, though a common carpenter, when speaking on his oath respecting an occurrence which passed in his own presence and hearing, is entitled to much more weight on the question of fact, than can be assigned to the opinion even of the attorney-general, who appears to have had not the slightest personal knowledge of what took place at the meeting. This is a conclusion to which, in so far as regards the facts in question, no one, I am inclined to think, would more readily subscribe than the attorney-general himself.

From your despatch of the 6th of February, I now, however, for the first time, learn that Mr. Ridout's removal from office was recommended by the executive council, and I further learn that they adhere to their original opinion. On this subject I have to state, that I have never expressed, nor do I now entertain, any judgment opposed to theirs; on the contrary, I entirely agree with them, that the various acts of misconduct, ascribed to Mr. Ridout in your despatch of the 12th of September, and still more fully stated in your despatch of the 6th of February, are such as would, if substantiated on proper inquiry, justify the very severe penalty inflicted on him. If I am to understand the council as thinking that such an inquiry was needless, I must, with whatever reluctance, differ from them. The grounds of that difference I have already, in part, explained; but I must add, that if there be any one class of public officers in whose case it is especially incumbent on the executive government to proceed with caution, circumspection, and with a strict observance of all the essential forms of proceeding on such occasions, it is the class of those who are entrusted with the administration of justice.

In avowing my opinion, that the matters laid to the charge of Mr. Ridout would, if established, justify his dismissal, I wish to be understood as not referring to the intemperate terms in which he addressed you after his removal from office. Much allowance is to be made for natural feelings under a sense of supposed injury, it is to the other allegations that my remark applies.

It is, I can assure you, painful to me to take any course of conduct which may aggravate the difficulties of your situation; yet I feel myself bound by the paramount obligations of justice still to withhold my approbation of the measures adopted in Mr. Ridout's case. On the other hand, his restitution to office may, I think, be properly made to depend upon his ability to exculpate himself from the various charges preferred against him in your despatches of the 12th of September and the 6th of February. To this extent the instructions conveyed to you in my despatch of the 29th of November are withdrawn and qualified; further than this, it is impossible for me to advance. You will, therefore, in whatever mode you shall think best, put Mr. Ridout in possession of those accusations, and, after weighing his answer and the evidence by which it may be supported, you will communicate to me the result.

I cannot close my answer to your despatch of the 6th of February, without adverting to some of the general topics to which you have there taken occasion to advert.

You complain that the governor's official explanatory despatches have in this case been treated by me as mere hearsay evidence, which must not affect the merits of the case. I may, perhaps, misunderstand the precise meaning of this remark, but if it be that statements made by a governor to me on the authority of third persons are entitled to the same weight as if they referred to facts of which he was the personal observer and witness, I can only say that I am not aware of any reason which would justify me in so regarding them.

If I rightly interpret some other passages of your despatch, you understand me to have authorised you to dismiss from office any person who should openly or latently oppose your policy. If you will refer again to the instructions which you have thus quoted, you will perceive that the officers to whom I referred, were not of the class to which Mr. Ridout belonged, but persons whose public offices bring them into a confidential or immediate connection with your administration of the affairs of the province. I certainly never contemplated that every officer of the militia, every district judge, and every justice of the peace, should hold his office on the condition of being dismissed if he should happen to oppose the policy of the lieutenant-governor for the time being. To urge the rule which I have laid down to such consequences, is at once to misapprehend my meaning, and to establish a principle which would bring almost every

gentleman in the province into such relations with the local government, as no man of independent character and principles could be expected or desired to maintain. The instructions to which you have referred, were intended to apply (and I think that intention sufficiently manifest) to those high and confidential officers of your government only, with whom you are habitually brought into confidential intercourse upon the general interests of the province.

If there be any ambiguity in my instructions to you, which I do not perceive, you will hereafter understand them in this limited sense only.

You further express your expectation that the "mere expression of your opinion of the absolute necessity for the dismissal of any person from office, whom, from your local knowledge, you deemed hostile to the British constitution, would have carried with it infinitely more weight than the individual's denial of his own guilt." From this and other passages in your despatch, I infer that you regard the secretary of state as virtually bound to adopt your opinions in individual cases as conclusive, even upon an appeal against your decision; but such is not my estimate of the duties of my office. I act under a strict and effective responsibility to the King and to parliament. Of every measure which I take, or which when taken by others, I approve, I must be prepared to produce the vindication. But I should ill acquit myself of that duty, if I attempted to rest my justification on an implicit confidence in the judgment of the officer against whose acts an appeal had been brought before me. Cherishing, as I do, the strongest presumption in favour of every decision of yours, I must yet, as often as your sentence is impeached, examine into the merits of the question with strict impartiality, and with a jealousy of those prepossessions in favour of your opinions from which I can never be exempt.

In our relative position in His Majesty's service, I could not act on any other principle without abandoning my duty to the King and to His Majesty's subjects; and I trust that, on your part, the just and lively estimate which you have formed of the importance and responsibility of your own duties, will be combined with a due allowance for the not less arduous and responsible nature of mine.

I have, &c.

(Signed)-

GLENELG.



*No. 39.—Lord Glenelg to Sir F. B. Head, Bart., K. C. H.*

SIR,

*Downing-street, 17th April, 1837.*

I HAVE received His Majesty's commands to take the necessary measures for expediting your patent as a baronet of the united kingdom. The King is graciously pleased to confer upon you this mark of His Royal favour, as a fit testimony of the high sense which His Majesty entertains of the services which you have rendered in the administration of the government of Upper Canada.

I have, &c.

(Signed) GLENELG.

*No. 40.—Lord Glenelg to Sir F. B. Head, Bart., K.C.H.*

SIR,

*Downing-street, 17th April, 1837.*

I HAVE received your despatch dated the 4th February, No. 7. It reached me on the 20th ultimo. It was not until the 7th instant, that I received, by a subsequent conveyance, the appendix, comprising the evidence taken before the committee of the house of general assembly of Upper Canada, to which was referred my correspondence with you, on the subject of the petition presented to the house of commons by Dr. Duncombe in the parliamentary session of 1836.

The refutation of Dr. Duncombe's charges is entirely satisfactory. It has been in the highest degree gratifying to me to be able to report to His Majesty, that after a minute and vigorous inquiry, during which every facility was given to the petitioner to substantiate his accusation, your conduct, in reference to the elections, has been proved to have been governed by a strict adherence to the principles of the constitution.

I have, &c.

(Signed) GLENELG.

*No. 41.—Lord Glenelg to Sir F. B. Head, Bart., K.C.H.*

SIR,

*Downing-street, 20th April, 1837.*

I HAVE the honour to acknowledge your despatch, No. 22, of the 4th ultimo, in which you transmit a copy of an address presented to you by the house of assembly of Upper Canada, together with a copy of the report of the select committee of that house, to whom was referred the subject of the petition of Dr. Duncombe to the house of commons, during the last session of parliament.

You also inclose two copies of that report to be laid before the houses of parliament, in compliance with the request contained in the address of the assembly.

I have had the honour to lay this address, with the accompanying document, before the King; and His Majesty has been graciously pleased to express the satisfaction with which he has read the result of the inquiries, of the house of assembly, into the allegations contained in Dr. Duncombe's petition.

With regard to your request that your despatch No. 7, of 4th February, in reply to the charges preferred against you by Mr. Hume and Dr. Duncombe, may be laid before parliament, I beg to acquaint you that Sir G. Grey, in his place in the house of commons, has moved for the production of that despatch, together with the address of the house of assembly and its inclosures, and that His Majesty has been pleased to order that they shall be produced accordingly. I have, &c.

(Signed) GLENELG.

*No. 42.—Lord Glenelg to Sir F. B. Head, Bart., K.C.H.*

SIR,

*Downing-street, 20th April, 1837.*

I HAVE the honour to acknowledge the receipt of your despatch No. 23, of the 4th ultimo, in which you transmit to me an address from the house of assembly of Upper Canada to the King, on the subject of the resolutions received from the speaker of the house of assembly of Lower Canada, by the late house of assembly of the upper province at its last session.

I beg leave to acquaint you, that having laid this address before the King, His Majesty was pleased to receive, with the highest satisfaction, the impressive evidence which it conveys of the attachment of the assembly of Upper Canada, and of their constituents, to the principles of the constitution established by the statute of 1791.

I have, &c.

(Signed) GLENELG.

*No. 43.—Lord Glenelg to Sir F. B. Head, Bart., K.C.H.*

SIR,

*Downing-street, 14th July, 1837.*

I HAVE had the honour to receive your despatch of the 5th April last, No. 41, inclosing the copy of a Gazette Extraordinary, notifying certain legal appointments which you had made, in conformity with an act passed by the legislature of Upper Canada, during their last session. The public events which have occurred since my receipt of that act, have hitherto rendered it impossible to submit it for the royal sanction; but I trust that I shall have it in my power to communicate to you

the Queen's pleasure respecting it at an early period. In the meantime Her Majesty commands me to express her approbation of the appointment of Mr. Jameson to be vice-chancellor, and of Messrs. A. Maclean and Jonas Jones to be judges in the court of Queen's bench, and I shall take an early opportunity of transmitting to you the necessary warrants, under the royal sign manual, confirming those appointments.

The selection of Mr. Hagerman to be attorney-general, appears more open to question. I am fully prepared to admit, as a general rule, the claim of the solicitor-general not to be passed over in any new arrangements, such as those to which your despatch refers, and I am of opinion that such a claim should not be set aside, without some strong and paramount reason.

I am also willing to give the greatest weight to the representations which you have addressed to me in Mr. Hagerman's favour, founded both on his private character and public merit. It is, however, essential that the gentleman who fills the high and responsible office of attorney-general, should hold opinions on questions of general policy, and relating to the administration of the affairs of the province, in unison with those of the executive government.

I have no reason to doubt that you have received the utmost support and co-operation from the solicitor-general; but I am bound to add, that if the sentiments ascribed to Mr. Hagerman in the resolutions, a copy of which I have the honour to inclose, be really entertained by him, and have been publicly expressed by him in his place as a member of the provincial legislature during the last session, a very wide difference exists between his view and that of Her Majesty's government, supported by the opinion given by the law officers of the crown, in 1819, as to the right of the church of Scotland in Upper Canada, under the act of 1791. As those resolutions have been transmitted to me by an individual member of the general assembly of the church of Scotland, and as I have not received any information from you on the subject, I am willing to hope that some misapprehension may have existed as to the real nature of the language employed by Mr. Hagerman; I shall therefore suspend my opinion as to the propriety of his advancement to the office of attorney-general, until he shall have had an opportunity of offering any explanation which he may desire to give with reference to this subject.

You will communicate to Mr. Hagerman a copy of so much



of this despatch as relates to him, together with a copy of the inclosed paper.

There is another subject noticed in your despatch, to which it is necessary that I should advert. You state that it has been with unfeigned regret that you have omitted to recommend for one of the new legal appointments Mr. Bidwell, whose professional talents you consider superior to those of at least one of the gentlemen selected by you, while his character is irreproachable. You observe, however, that Mr. Bidwell's object, "so far as it could be elicited by the conduct of his associates," was to separate Upper Canada from the parent state, and you claim my assent to the proposition that "where a man acts with disloyal associates his talents aggravate rather than extenuate his offence."

I need not assure you of the great weight which I attach to any opinion respecting the affairs of Upper Canada deliberately expressed by you; and I have accordingly felt bound, in the present instance, to defer to your judgment relative to Mr. Bidwell; but, considering that the disloyalty which is imputed to Mr. Bidwell's associates is not charged against himself, or attempted to be proved by any act of his; that he has, for the present at least, withdrawn himself from political strife; and that his legal abilities and high moral character are acknowledged and respected even by his political opponents, I cannot regard the part which he formerly took in local politics as an insuperable barrier to his future advancement in his profession; on the contrary, adverting to the general estimate of his qualifications for a seat on the bench, it appears to me that the public interests would be promoted by securing his services. Nor would it be of slight importance to convince the inhabitants of Upper Canada, that in the selections for judicial offices the executive government is actuated by no other feeling than an anxiety to promote the welfare of all classes of Her Majesty's subjects. If, therefore, as you appear to anticipate, another vacancy should occur among the judges of the court of Queen's bench, it is the wish of Her Majesty's government that the situation should be offered to Mr. Bidwell, and they will hear with much pleasure that he has accepted it.

I have, &c.

(Signed)

GLENELG.

Inclosure in No. 43.

*Meeting of the Congregation of Saint Andrew's Church.*

PURSUANT to a requisition to that effect, a meeting of the congregation of Saint Andrew's church took place in the church yesterday evening, the 28th day of March, 1837, for the purpose of taking prompt and decided measures for securing the ecclesiastical rights of the adherents of the church of Scotland in this province, from the infringements with which these rights are at present threatened, and also for the purpose of electing a delegate to represent the congregation at the proposed meeting of the delegates from the several congregations of the church, to be held at Coburg on the 14th of April next.

At seven o'clock the Reverend John Machar opened the meeting by prayer, after which John M'Lean. Esq., was called to the chair, and Mr. R. M. Rose appointed secretary.

The chairman having explained the objects of the meeting, the following resolutions were put and unanimously adopted.

Moved by Mr. Pringle, and seconded by Mr. Andrew Drummond:—Resolved, That this meeting, firmly believing that "righteousness exalteth a nation," have ever contemplated with peculiar satisfaction that part of the imperial statute of the 31st of His late Majesty George the Third, which makes provision for the maintenance and support of a protestant clergy within these provinces, by an allotment of one-seventh of the waste lands of the crown for that purpose.

Moved by Mr. Williamson, and seconded by Mr. Harper:—Resolved, That this meeting, while they entertain a grateful sense of the just and enlightened views which actuated His late Majesty, and the other branches of the imperial legislature, in making provision for the support of a protestant clergy, cannot forbear expressing their deep regret that the church of Scotland have not only hitherto been debarred from participating in the proceeds of the interest and rents arising from the reserved lands, but in other respects have been treated rather as the teachers of a sect merely tolerated, than as the clergy of a church recognized and acknowledged by the laws of the empire.

Moved by Mr. Patrick M'Gregor, and seconded by Mr. John Mowat [Vide end of this Inclosure, Note 1.]:—Resolved, That when this meeting refer to the declared opinions of the very highest legal authorities of the empire, given at Doctors Commons on the 15th November, 1819, and to the concurrent

opinion of the select committee of the house of commons, in the year 1827, and also to the subsequent instructions of His Majesty to his then lieutenant-governor Sir John Colborne, in the year 1832, wherein His Majesty most distinctly recognizes "the just claims of the established churches of England and Scotland," and expresses his concern that "as yet the waste lands which have been set apart as a provision for the clergy of these venerable bodies have hitherto realized no disposable revenue;" when this meeting refer to these things, and yet, in opposition to such full and ample recognition of the rights of the clergy of the church of Scotland, perceive His Majesty's solicitor-general asserting, in his place as a member of the provincial legislature, that the church of England is the established church, that the Roman Catholic church is an established church, but that the church of Scotland is no more an established church than that of any other dissenting body in in the province; perceiving also that similar opinions are held and maintained by other members of the house of assembly, advocates for the exclusive rights of the church of England, their confidence in the provincial legislature is lost, and thus they find it necessary to appeal to His Majesty and the imperial parliament, for recovering and securing those rights and privileges to which the people and clergy of the church of Scotland consider themselves so justly entitled by the act of union, which provides for a communication of all rights and privileges with the subjects of England.

Moved by Mr. John Oliphant, and seconded by Mr. Strachan:—Resolved, That this meeting, while they claim for the clergy of the church of Scotland, the rights and privileges which belong to them in common with the clergy of the church of England, assume the principle that the clergy of these two churches are the only clergy recognized by the laws of the empire as a protestant clergy, and entitled to participate in the provision made for the maintenance and support of a protestant clergy.

Moved by Mr. A. M'Nab, and seconded by Mr. William M'Intosh [Vide end of this Inclosure, Note 2.]—Resolved, That this meeting, while they disavow any wish to deprive the clergy of the church of England of their full share of that property to which they are justly entitled as a branch of the protestant church, or to object to their spiritual authority and ecclesiastical jurisdiction in so far as these are limited to the members



of their own communion, and are neither assumed nor exercised over the clergy or people of the church of Scotland, feel themselves warranted in saying that the recent establishment of rectories, and the induction of clergymen into these rectories, were measures, if not illegal, at least highly impolitic on the part of the provincial government, under the existing circumstances, and especially during the pending of those measures of settlement recommended by His Majesty, in which His Majesty was careful to keep in view the just rights of both the protestant establishments.

Moved by Mr. Mason, and seconded by Mr. Oliver Mowat :—Resolved, That this meeting, on behalf of themselves and their pastor, reject the compliments paid to them in the “Patriot” newspaper, to the disparagement of their fellow churchmen, who, seeking a common object with this congregation, had a right to exercise their judgment as to the best means of securing it; nor can this meeting forbear to express their concurrence in the condemnation, already widely pronounced of the grossly incorrect statements and intemperate language respecting their church and clergy, of solicitor-general Hagerman, in the house of assembly on the 9th February last.

Moved by Mr. J. Cameron, and seconded by Mr. M‘Murrick :—Resolved, That while this meeting, both on account of the pure doctrines inculcated in the standards of the church of England, and on account of the estimable Christian qualities exemplified by many in her communion, deeply regret their being forced into a position of apparent hostility to that church: they feel that not to withstand to the utmost, as is now proposed to be done, the unjust and exclusive claims arrogated for her by some of her unwise champions, were to betray the best interests of the church of Christ in this land, inasmuch as this meeting are fully persuaded that the position blindly sought for by the church of England, will not only be hurtful to herself, but in a high degree prejudicial to the spiritual welfare of multitudes belonging to the church of Scotland, who, under whatever destitution of pastoral instruction they might for a length of time labour, would not connect themselves with the church of England.

Moved by Mr. Pringle, and seconded by Mr. John Mowat :—Resolved, That as it has been proposed that a delegate from each congregation of the Scottish church in the Canadas should meet at Coburg on the 14th day of April next, for the purpose of pre-

paring and forwarding a petition to His Majesty and both houses of the imperial parliament, and to adopt such other measures as may appear to the delegates, when met, best calculated to promote the general interests of the church, and to secure her just rights, that this meeting now appoint F. A. Harper, Esq., to be the delegate from this congregation.

Moved by Mr. Pringle, and seconded by Mr. Strange:—Resolved, That Messrs. John Mowat, Alexander Pringle, John M'Lean, James Williamson, and Patrick M'Gregor be a committee, to correspond and advise with Mr. Harper on matters relative to his mission.

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### NOTES.

Note 1.—Mr. Mowat stated, that he held in his hand “An Address to Scotchmen,” written by a worthy member of the church of Scotland living at a distance, and proposed that the meeting should hear it read. This proposal being agreed to, the Address was accordingly read, and received with approbation.

Note 2.—Mr. M'Nab, in moving this resolution, read the following extract from one of the works of that eminent English divine, William Hurd, D. D.:—

“We have considered the Calvinists, in a general point of view, as particularly established in some parts of Europe. We shall now consider them as a national church, begun by infinite wisdom, supported by almighty power, regulated by unerring Providence, and at present one of the glories of the protestant world. And here we are sorry to observe, that although the people of England are united under one government with those of Scotland, yet there are many of the former utterly ignorant of the religion of the latter. Nothing is more common in England than to call the people of Scotland dissenters; whereas they have their own church established by law. Nay, so firmly is the church of Scotland established, that it cannot be overthrown unless there is a total revolution.

“This will appear evident, when we consider in what manner the King of Great Britain swears to protect, defend, and support that church. The moment the death of the King is made public to his successor, the heir takes his place in the council, and it is intimated to him that he cannot be proclaimed till he has sworn before their lordships that he will maintain the church of Scotland as by law established. This oath is administered in

the Scottish fashion, by the King's holding up his right hand, and solemnly swearing that he will do nothing to injure the church of Scotland, but support her in all her privileges. A copy of this oath is recorded in the books of the privy council; and then a messenger is despatched to Edinburgh, who gives it in the court of session, where it is read, and ordered to be recorded in the lords' register office.

"Here we find a vast privilege bestowed on the church of Scotland beyond that of England, for in England the King does not swear to maintain the church till his coronation. This privilege was claimed by the people of Scotland in that convention of estates, 1689, which declared the throne vacant, and voted in William and Mary. It was again insisted on by the whole nation of Scotland at the union, 1707; it was claimed, not as a favour, but as a right; and the King of Great Britain can no more dispense with it than he can with any of the fundamental laws of the constitution. We have been the more explicit on this subject, that our readers may be made acquainted with it, and that they may know every particular; for, as a celebrated author says, 'we should not only learn every thing, but we should learn every thing well.'"

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*No. 44.—Lord Glenelg to Sir F. B. Head, Bart., K.C.H.*

SIR,

*Downing-street, 23rd July, 1837.*

I HAVE the honour to acknowledge the receipt of your despatch of the 30th May, No. 66, reporting the circumstances under which you have thought it necessary to convene the legislature of Upper Canada.

Much as I regret that strong popular feelings and anxieties should have forced upon you any measure which was not entirely consonant with your own opinions and with those of your executive council, I am nevertheless convinced that in calling together the local legislature you have adopted the best course which, under all the circumstances of the case, it was possible for you to pursue.

I have, &c.

(Signed)

GLENELG.

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*No. 45.—Lord Glenelg to Sir F. B. Head, Bart., K.C.H.*

SIR,

*Downing-street, 29th July, 1837.*

I HAVE had the honour to receive your despatches of the 24th May, No. 60, and the 8th June, No. 70, on the subject



of the present financial embarrassments of Upper Canada, in consequence of the discontinuance of specie payments throughout the continent of North America, and reporting the steps which you had taken for the purpose of assisting the Upper Canada bank.

I approve of the measures which, in the peculiar and difficult circumstances of the case, you adopted, although it is impossible not to recognize the force of the objections against any issue of specie to the Upper Canada bank out of the military chest, or the advance to them by the commissary-general of bills on the lords of the treasury. The arguments used in Mr. Commissioner-general Routh's letter, of the 26th May, are conclusive, and his conduct on this occasion, having been fully reported and explained by himself to the lords commissioners of the treasury, has received their lordships' unqualified approbation.

I have, &c.

(Signed)

GLENELG.

*No. 46.—Lord Glenelg to Sir F. B. Head, Bart., K.C.H.*

SIR,

*Downing-street, 26th August, 1837.*

I HAVE received your despatches, dated 12th and 20th July, Nos. 82 and 84, and have had the honour to lay before the Queen the report, contained in the former of these despatches, of the proceedings of the legislature of Upper Canada in the second session of the present year.

Her Majesty has received, with great satisfaction, the proof which has thus been given of the adherence, under circumstances of no ordinary difficulty, of the legislature of that important portion of the British empire to the principles of commercial faith and national honour. Her Majesty is pleased to regard it as no ordinary felicity, that the first act of her government, in reference to that part of her dominions, should be to give her assent to a law conceived in such a spirit, and calculated, as she trusts, by sustaining public confidence, to avert the danger in the contemplation of which it was passed.

It has been very satisfactory to the Queen to learn that the chartered banks of the province had, down to so late a period as the 20th July, persevered in the honourable course of fulfilling their engagements, regardless of the risk, or the losses to which they might be exposed by keeping faith with their creditors. Her Majesty is convinced that this sacrifice will be amply

repaid by the just reliance, which will be reposed in the honour of the conductors of those establishments.

I am honoured by the commands of the Queen to convey to you the expression of Her Majesty's entire approbation of the firmness and ability by which your conduct in this trying exigency has been distinguished.

I have, &c.

(Signed)

GLENELG.

*No. 47.—Lord Glenelg to Sir F. B. Head, Bart., K.C.H.*

SIR,

*Downing-street, 7th September, 1837.*

DURING the present year, I have received numerous communications from gentlemen, either resident in England, or deputed hither by communities in connection with the churches of England and Scotland, on the subject of the present state of the ecclesiastical establishments in the Canadian provinces, and more especially with reference to the appropriation of the clergy reserves. In answer to these communications, I have entered at considerable length into the question, and have fully explained to the applicants the position and the views of Her Majesty's government respecting it. I herewith inclose for your information copies of this correspondence, of which a schedule accompanies this despatch.

With the previous knowledge which you possess of the subject, and the information contained in the accompanying letters, it is unnecessary for me to enter into any detailed exposition of the present state of the case. It is sufficient to observe, that, notwithstanding the instances, which, as you will perceive, have been addressed to me by some of the deputies, the objections against any interference of the imperial parliament, except at the invitation of the Canadian legislatures, appear to be insuperable.

At the same time there is scarcely any question connected with public affairs in Canada, the settlement of which, on a comprehensive and liberal basis, would be hailed with more satisfaction by Her Majesty's government.

Independently of its intrinsic interest, this question derives an importance which can scarcely be exaggerated from the nature of the feelings which it calls into action. Involving much of a religious character, it is approached with sentiments far more serious and deeply rooted than are brought to the discussion

of ordinary political questions. It is therefore with no groundless anxiety that Her Majesty's government have long contemplated the unsettled state of this question, an anxiety which has been fully justified by the events of the last session in Upper Canada. On referring to the public journals I find that the settlement of the clergy reserves engaged much of the attention of the assembly of that province, and gave rise to discussions of unusual length and animation. The intensity of the public feeling on the subject is attested by the large space devoted to the discussion of it, no less than by the direct evidence of many of the gentlemen who have addressed me; while the difficulty of devising a final settlement of the antagonist claims, and the ill consequences resulting from their continual agitation, have induced some of those gentlemen earnestly to invoke the interposition of the imperial legislature.

Under these circumstances you will readily understand my anxiety to contribute by all means in my power to an adjustment of the question, and it has appeared to me that the experience acquired in other of the British colonies might perhaps be useful in suggesting to the legislatures of Upper and Lower Canada, the arrangement of a measure which might be satisfactory to all parties. In the colony of New South Wales a great deficiency existed in the means of religious instruction, a deficiency which the unassisted efforts of the inhabitants would have been quite inadequate to supply. To remedy this difficulty, Her Majesty's government proposed a plan, the principles and details of which you will find fully explained, in those parts of the accompanying parliamentary paper which relate to a provision for the erection of places of worship, and the maintenance of ministers in the Australian colonies, and which have since been adopted and embodied in a legislative enactment passed by the governor and council of New South Wales, and also inclosed for your information.

The circumstances of the Australian colonies differ so widely from those of Canada, that it would be plainly impossible to transfer to the latter country the entire system which has been adopted with success in the former. Nor should I venture to prescribe to the legislatures of the Canadian provinces the principles on which they should endeavour to make provision for the religious wants of their fellow-colonists. The inhabitants



of the Australian colonies belong almost exclusively to the churches of England, of Scotland, and of Rome; but in the Canadas the case is different. There are in those provinces many other persuasions of christians forming large communities each superintended by a controlling body. The exclusion of these communities, from the benefit of a public provision made for religious purposes, would be quite inconsistent with the design of Her Majesty's government. It is, on the contrary, their anxious wish that to all such christian communities assistance should be afforded, in proportion to their numbers and to their necessities. To the maintenance of the actual ministers of the churches of England and Scotland in their existing emoluments the faith of Her Majesty's government is, as you are aware, distinctly pledged; but should any arrangement be hereafter concluded with the legislatures of Upper and Lower Canada for the cession to them of the crown revenues, there would be at the disposal of the legislature from that fund, and from the other sources of revenue, ample means of providing for the erection of places of worship, and the salaries of ministers throughout the provinces. I have, &c.

(Signed) GLENELG.

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*No. 48.—Lord Glenelg to Sir F. B. Head, Bart., K.C.H.*

SIR,

*Downing-street, 4th October, 1837.*

I HAVE had under my attentive consideration your several despatches on the subject of the expenses to which you have been subjected by your appointment to be lieutenant-governor of Upper Canada, and I have felt every desire if possible to discover a mode of affording you relief.

Your representation embraces three distinct topics, to which I shall reply in order:—

First, you desire to be informed from what funds the expenses incurred by you in your inspectional tour through the province are to be defrayed. To this question you will have already received the answer contained in my despatch of the 4th January. It only remains for me, therefore, on the present occasion, to convey to you my approval of the amount and nature of this expenditure, as shown by the vouchers which accompany your despatch of the 4th February.

Secondly, you advert to the extraordinary expenses which you incurred in consequence of the circumstances under which

you were despatched to assume the government of Upper Canada. Those expenses you estimate at 800*l.*, independently of the sum required for the conveyance of Lady Head and your family to Toronto. You also call my attention to the amount paid by you to Sir J. Colborne, on account of the furniture in the government house, which, together with the furniture purchased by your orders in this country, amounts to 2,050*l.*

You are aware, that by a regulation which has been for many years in force, and which equally affects the governors of all the British North American provinces, 300*l.* is the amount of allowance for outfit and passage on the appointment of a governor. There does not seem to be any special ground which could be urged for making your case an exception to this regulation, so far as relates to those expenses which must, in any case, have been incurred on the assumption of the government, especially as, contrary to former practice, you were relieved, on my recommendation, from the payment of the stamp-duty on your commission. So also with regard to the sums paid by you on account of furniture. I regret that I cannot feel myself justified in suggesting to the lords of the treasury to assume any portion of that expenditure. At the same time I am of opinion that, without reference to your particular case, it would be expedient to extend to other colonies the rule which has already been applied in the case of some of the West Indian colonies, in which the furniture of the rooms in the governor's residence, required and used for public reception, is provided, not at the expense of each successive governor, but from colonial funds. On the same principle on which a residence is provided for the officer administering the government at the public expense, the requisite furniture for so much at least of that residence as is employed for public purposes should also, as it appears to me, be supplied. I have therefore to authorize you to suggest to the legislature of Upper Canada the propriety of purchasing, for the public service, such part of the furniture at present in use in the government-house as comes within this description. If, as I confidently anticipate, they should accede to this suggestion, it will be for them to take the necessary steps for ascertaining its value, and to decide in what manner provision should be made for its future safe custody, for the use of the lieutenant-governor for the time being. In consideration, however, of the increased expense necessarily arising from the suddenness of

your departure for Upper Canada, the lords commissioners of the treasury have sanctioned an increase of 500*l.* to the allowance already made to you for outfit and passage.

You are at liberty, either to draw forthwith on their lordships for this sum, or to grant to your agent in this country a power of attorney to receive it for you. If you should prefer the former course, care must be taken to state in the body of the bill the service for which it is drawn, and to advise their lordships immediately of its number and date.

Thirdly, you repeat your representations in regard to the inadequacy of your emoluments, and you call on me to fulfil the expectation formerly held out of an increase of your salary, contingent on the result of your longer experience. On this point, I will not now question the accuracy of the opinion, which you so decidedly express; but I must confess that, under existing circumstances, there is a very serious difficulty in meeting your wishes. There are no funds in this country from which a permanent augmentation of the salary of the lieutenant governor of Upper Canada could be drawn. An application to parliament for this purpose, in the case of a colony possessing ample resources, administered by an assembly which has shown no disposition to withhold the requisite funds for any public service, would be, if not altogether unprecedented, at least so contrary to the principle which has been repeatedly recognized and acted on, that Her Majesty's government could not feel justified in having recourse to it, even were it likely to be attended with success. Such an application I certainly have never contemplated. The provincial revenue is the natural resource; but there are undoubtedly circumstances which may make an application to the local legislature for such a purpose at the present time inexpedient, and except with their sanction, the colonial revenue cannot be rendered available, as I do not feel myself at liberty, after the propositions which have been made to the legislature of Upper Canada respecting the casual and territorial revenue, at once to authorize you to derive from that source an additional amount of salary. The question, indeed, is one which properly belongs to the provincial legislature, and I should be happy to find that they were not indisposed to enter on the consideration of it. Without their intervention, the difficulty appears to me insuperable. If, however, there is sufficient reason to believe, that they would decline to



sanction any increase to the present amount of salary, unequivocal evidence would be afforded of the public sentiment on this point, and you would at once be relieved from the obligation which you have hitherto felt to maintain the scale of expense observed by your immediate predecessors.

I have, &c.

(Signed) GLENELG.

*No. 49.—Lord Glenelg to Sir F. B. Head, Bart., K.C.H.*

SIR,

*Downing-street, 26th October, 1837.*

I HAVE the honour to acknowledge the receipt of your despatch, No. 99, of the 10th of September last.

I will not conceal from you the surprise with which I have perused that despatch, nor my sense of the degree of public inconvenience likely to ensue from so abrupt a termination of your administration of the affairs of Upper Canada, at a period when the result of your policy in several important questions remains undecided, and when it is obviously of the greatest consequence, that measures recommended and instituted by yourself, should be followed up under your own superintendence in the approaching session of the provincial legislature.

I therefore feel it is my duty to abstain from laying your resignation before the Queen, until I shall have had an opportunity of consulting my colleagues collectively as to the course which it will be right for me to adopt. The absence of several of them from London at the present moment, precludes my doing this immediately, although the delay, I trust, will be of very short duration. In the meantime, I purposely abstain from adverting to any of the topics which you have introduced into your despatch.

I have, &c.

(Signed) GLENELG.

*No. 50.—Lord Glenelg to Sir F. B. Head, Bart., K.C.H.*

SIR,

*Downing-street, 8th November, 1837.*

I HAVE received your despatches, Nos. 100 and 101, dated on the 11th and 15th of September, inclosing the answers of Mr. Hagerman, the attorney-general of Upper Canada, to the inquiries which I instructed you to propose to that gentleman in my despatch, No. 200, of the 14th July, 1837.

It affords me the highest satisfaction to acknowledge that Mr.

Hagerman has entirely rescued himself from the imputations which formed the ground of the representations transmitted to me through a member of the general assembly of the church of Scotland. In deference to the authority of the presbytery and members of that church at Kingston in Upper Canada, from whom the complaint emanated, I felt myself constrained to pause in submitting to the Queen the confirmation of Mr. Hagerman's appointment as attorney-general, until he should have answered the remonstrance preferred by them against his public conduct. Mr. Hagerman's explicit assurance is sufficient to convince me that they must have been misled by erroneous information, and that his conduct was not obnoxious to the charge preferred against him. I feel it due to him to add, that he appears to have been uniformly solicitous, in the proceedings in which he has taken a part on this question, to conform to the views of the government, in whose service he was employed.

Under these circumstances, the Queen has been pleased to command that the warrant, appointing Mr. Hagerman attorney-general of Upper Canada, and the warrant appointing Mr. Draper solicitor-general of the province, should immediately be prepared for Her Majesty's signature.

It gives me great pleasure to make to you this communication. The warrants will be delivered to the agents of these gentlemen on application at this office. With regard to Mr. Draper, it is scarcely necessary to mention, that the only question was, not whether his promotion should be confirmed, but whether in a possible contingency he might not have to be appointed at once to the office of attorney-general. Mr. Draper I know will concur with me in rejoicing that the contingency to which I refer has not occurred.

I have, &c.

(Signed) GLENELG.

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*No. 51.—Lord Glenelg to Sir F. B. Head, Bart., K.C.H.*

SIR,

*Downing-street, 24th November, 1837.*

IN my despatch of the 26th of October, No. 238, I acknowledged the receipt of your despatch of the 10th of September, No. 99, and informed you, that I had felt it to be my duty to abstain from laying before the Queen your resignation of the office of lieutenant-governor of the province of Upper Canada, until I should have had an opportunity of consulting my col-

leagues collectively as to the course which it would be right for me to adopt. Her Majesty's confidential advisers having now bestowed their careful attention on the whole subject, I proceed to communicate to you the result of their deliberations.

It is due to my own character, and to the station which I have the honour to hold, that I should connect this communication with an explicit reference to the various grounds which you have assigned in explanation of your conduct on this occasion.

The first of these topics, however, I shall pass over with a very few words. To those who have intrusted me with the office which I now fill, I have given the most precise explanation of the mode in which I have executed the duty of superintending your administration of the affairs of Upper Canada; but to an officer serving under my immediate authority, who charges me with having surrendered the exercise of my own independent judgment to some invisible and overruling influence, exerted for the introduction of republican principles into British North America, I need make no reply, contented to refer, to his more calm and deliberate judgment, the question whether it is fitting that so serious a charge should be conveyed in such a form and on such an occasion?

Commencing with this topic, you next proceed to announce that the system of policy pursued by my predecessors and by myself, in reference to British North America, is essentially opposed to your own.

This declaration naturally leads to the inquiry, whether, during the period of our official connection, there has ever arisen, until the present time, any material question of practical conduct on which we have differed? Our abstract principles may not have been the same; in our official correspondence you may have occasionally advanced doctrines to which I have not been able to give my assent; such disagreements are more or less inseparable from every discussion, between those who at once assert for themselves and respect in others the free exercise of an independent judgment. Habitually indisposed to make my official correspondence the channel for the debate of abstract questions of policy, I have been content to know that you were prepared to obey my instructions, and have felt comparatively very little concern as to the light in which you might regard my opinions. Whatever theoretical distinctions may have existed between you and me, it is at least clear, that,



subject to the exceptions to be noticed in the sequel, you have avowed your entire acquiescence in the whole tenor of my instructions, and that every act of which you have been the author, involving any of the general and permanent interests of the province, I have sanctioned and approved.

My views of the policy to be observed, and my instructions as to the measures to be adopted by you as lieutenant-governor of Upper Canada, were conveyed to you in my despatch of the 5th of December, 1835. What then has been your language and what your course of proceeding, in reference to the rules which, in that despatch, I laid down for your guidance?

Within three months from your arrival in Upper Canada you addressed to me a despatch, dated the 21st of April, 1836, in which I find the following passages:—

“The decided measures which your lordship took promptly to correct the alleged grievances which were brought before you, have had the happy effect of breaking up the faction which, from want of firmness, has long been undermining the constitution of this province.”—“I shall never regret the generous policy which attempted to produce here tranquillity by conciliation, for I at present owe to it my success.”

After the lapse of three additional months you addressed to me a despatch, dated on the 23rd of July, 1836, in which you strongly objected to one of the measures directed by my original instructions, that, namely, surrender of the territorial revenue of the crown to the appropriation of the house of assembly in exchange for an adequate civil list. I answered (in my despatch of the 8th of September, 1836), that from my original instructions it was impossible for the government to depart, and that a zealous and cordial co-operation on your part, in prosecuting the system of policy announced in those instructions, was the condition on which the administration of the province would be continued in your hands. I transcribe from your despatch of the 7th of November, 1836, acknowledging this answer, the following passage:—

“With respect to the instructions I have had the honour to receive from your lordship, I have no hesitation in saying that when I received them in England they appeared to me to be every thing I could desire.

“They have formed the text of all the replies I have made to the various addresses I have received, and I have invariably

referred to them as a proof that I was ordered by your lordship 'to maintain the happy constitution of this province inviolate, yet cautiously and effectually to correct all real grievances.' The victory I gained over the republicans I attributed (vide my despatch, No. 56), not to my own exertions, but to your lordship's instructions."

Although you still retained your opinion as to the inexpediency of the surrender of the territorial revenue, this was a difference of opinion only, and involved no practical difficulty. Your duty having been discharged by a frank avowal of your views on that question, and mine by a declaration equally explicit of my adherence to my original decision, the discussion reached its close. You acquiesced in giving effect to the fixed purpose of His late Majesty's government on this subject, devolving on them, very properly, the undivided responsibility for the consequences that might follow. To this resolution, to submit yourself to the authority of the ministers of the crown on this subject, you adhered so recently as the 22nd of August in the present year, that is, only three weeks before the date of your resignation; for, in a despatch dated on that day, you solicited specific directions for your guidance during the ensuing session, as to the details of the proposed surrender of this revenue. I might, without much risk of error, add, that your opinion, as to the ruinous results to be anticipated from the surrender, had probably undergone a material change, for in your despatch of the 22nd August, 1837, you reported that the revenue to be given up was hardly equal to the charges upon it, and you referred to that circumstance as explanatory of "the indifference of the assembly in not at once accepting an offer which, in their opinion, might turn out to them a losing bargain."

With the solitary exception of the proposed surrender of the territorial revenue, I had not, from the commencement of your administration until my receipt of your despatch of the 10th of September, 1837, the slightest reason to know or to surmise, that, among the measures prescribed for your adoption in my original instructions, there was any one to which you did not completely and cordially subscribe; on the contrary, the repeated assurances which I have quoted from your despatches led me to conclude that I might calculate on your zealous observance of those instructions, as the rule and guide of your official conduct. If therefore the contrast which you declare to

have existed between your policy and mine has really prevailed, in reference to the specific measures indicated by my original instructions, I can only state that my ignorance of the fact has been as unavoidable as it has been complete.

I have further stated, and I proceed to show, that there is no one of your reported acts or proceedings in which the general interests of the province were involved which has not received my sanction. I refer especially to your choice of executive councillors from the popular party,—your subsequent resistance to their demands,—your acceptance of the resignation of the whole council,—your selection of four new members,—your opposition to the pretensions of the assembly,—your dissolution of the legislature,—your selection of three new judges,—and your proceedings respecting the suspension of cash payments. This enumeration comprises the whole series of your reported measures, affecting any of the general and permanent interests of Upper Canada. The more important of them have been acknowledged in terms of ample and cordial commendation. On the ground of your services you have been rewarded by advancement to the dignity of a baronet. The supposed contrast between your policy and mine is not, therefore, to be discovered in reference to any one considerable measure of which you were the author.

If there really exists any essential difference between us respecting the administration of the affairs of Upper Canada, it must be a difference reconcileable with your avowed acquiescence in all the measures which I prescribed, and with my approval and commendation of every material act which you have reported as having originated with yourself.

It is indeed sufficiently apparent, from your present despatch, that there are some questions on which we differ. The nature and the amount of that difference I will subsequently consider. But it is necessary, that I should first advert to your remarks respecting the government of the neighbouring provinces, to which you point as illustrating the dangers of that conciliatory policy of which you represent me as the supporter and yourself as the opponent.

Without entering into a digression of great extent, it would be impossible for me to explain in this place the grounds on which I am prepared to vindicate the whole course and tenor of my proceedings in the administration of the affairs of British



North America. With what success they have been attended in Upper Canada, the preceding quotations from your despatches may sufficiently attest. For my immediate purpose it is enough to observe, that, possessing means of knowledge which are not within your reach, I cannot defer to your opinion, however confidently entertained and vehemently expressed. Reflection and experience have strengthened my previous conviction, that, not on the North American continent only, but throughout the whole extent of our colonial dependencies, a firm adherence to the principles of the British constitution, so far from being incompatible with a system of conciliation, can only be effectually maintained in connection with that system; and that the surest support of the authority of the crown, in these distant possessions, is to be found in a prompt attention to every complaint,—in the redress of every real grievance,—in a government acting for the benefit of the colonists collectively, and not exhibiting itself as the leader of any single party,—in an impartial justice to all persons; in a word, in that policy which you condemn as conciliatory. Little advance indeed is made towards any useful conclusion by the mere application, whether for the purpose of praise or censure, of a general term of this kind to any system of government. Such controversies are seldom much more than verbal. But this degree at least of notice I could not refuse to your sweeping censure of measures, which, I must be permitted to think, you can appreciate but very imperfectly.

With these preliminary remarks I proceed to consider the complaints which you have made respecting my conduct in the official relation subsisting between us, from its commencement to the present time.

1. Your first complaint relates to the occurrences which took place respecting the office of the surveyor-general. The following are the facts of this case:—

The office having become vacant, very powerful local interest was made to obtain the appointment for Mr. Radenhurst. You objected, and on conclusive grounds, to this proposal, and conferred the office, subject of course to His Majesty's pleasure, on Captain Macaulay. Within less than a week that gentleman tendered his resignation, and it was accepted. Your report of these circumstances reached me on the 29th of March, 1836. You left me without any information as to the motives

or the circumstances which had induced Captain Macaulay to surrender the office. You did not inform me whether he was still to be regarded as a candidate for the place, nor did you suggest any person as his successor. You did not call upon me to make a new appointment. You solicited no instructions; nor was there any measure which it remained for me to take on the subject. I therefore waited in silence your expected report of the arrangements which you might propose to make, for supplying the vacancy occasioned by Captain Macaulay's resignation. But as several weeks elapsed without the arrival of any further communication from you, I at length, in my despatch of the 25th of July, requested you to make another choice. To no part of your proceedings did I object; but, on the contrary, I declared my approbation of your refusal to appoint Mr. Radenhurst.

You complain, however, of my inattention and neglect on this subject. I answer, that the delay was the unavoidable consequence of your own postponement of the nomination of Captain Macaulay's successor. I might indeed have interposed to fill up the vacant office, by an appointment originating with myself; but it was my wish and purpose that the new surveyor-general, whoever he might be, should be indebted for his advancement to your spontaneous act, and to that alone. Aware of the difficulties of your situation, I was happy to leave in your hands this and every other resource for augmenting the number and the attachment of your supporters.

It would therefore have been totally beyond my power even to conjecture in what manner I had wronged or embarrassed you respecting this office, or what could be the source of your dissatisfaction on the subject, if some light had not been thrown upon it by facts which I have learnt from Captain Macaulay himself. That gentleman presented himself here in the autumn of 1836, with a complaint which I communicated to you, and the substance of which you have not contradicted. He represented that his resignation was not a spontaneous act, but that it was made at your request; that his letter resigning the office of surveyor-general, which you had transmitted to me without comment, was really drawn up at your own suggestion; and that he had distinctly intimated to you that he was still to be considered a candidate for the office. Now, if the fact be that you thought Captain Macaulay's appointment desirable, and if

it was your purpose or wish that I should decline to accept his resignation, my omission to take that course may have disappointed your plans, and so may have been productive of some embarrassment to you. But I was in utter ignorance of what had privately taken place between Captain Macaulay and yourself. His resignation appeared to be perfectly voluntary and unconditional; and in that light alone I received and viewed it. If, in this instance, I did not co-operate with you, it was because your report left me in total ignorance of any ulterior views which you may have entertained in Captain Macaulay's favour.

2. The second case of imputed neglect respects your contest with the executive council. Your report on that subject reached this office on the 25th of April, 1836, and three months elapsed before it was answered. Your present remonstrance imposes on me the necessity of explaining this delay.

I freely acknowledge, that, although your conduct in the main appeared to me worthy of commendation, yet in this instance I found it impossible, without a sacrifice of sincerity and truth, to pronounce regarding it an absolute and unqualified approbation. To have announced even a partial dissent at the moment of your struggle could not have failed to discourage, and might seriously have embarrassed you. I therefore resolved to await the result in silence. In case of a failure of your measures, I felt that I was thus rendering myself responsible for that part of them which I disapproved, no less than for the other portion which I might approve. It was, however, my determination, that in the event of such a failure, I should withhold my opinions, and assume to myself the full responsibility for every act in which I had tacitly acquiesced; but that in the opposite event—that, namely, of your success, I should, while offering to you the meed of just applause, hazard at the same time the frank expression of my dissent, so far as it extended. The issue of the struggle was successful in the highest degree; and accordingly, in pursuance of the resolution which I had taken, I addressed you on the subject in the month of July, 1836, combining, with the cordial language of general approbation, not indeed a censure, but a cautious avowal of my opinion, that in the contest with the executive councillors one step had been taken which it would be difficult to justify.

The silence which I observed on this subject, from April to



July, 1836, was therefore the result of no indifference to your difficulties, but the reverse; the motives by which it was dictated were, at least, not ungenerous, nor must I omit to add, that I had sufficient reason to conclude that a tacit acquiescence on my part was really in accordance with your own wishes. In your despatch of the 21st of April, 1836, you had deprecated any interference with your projected measures, and had stated that you were not looking to me for instructions or direct assistance. From this language I drew the conclusion, which it still appears to me to warrant, and inferred that you would not expect from me an opinion on the merits of your preparatory acts, until I should be apprised in what manner those measures might, in the exercise of the freedom of action which you had solicited, be followed up.

3. The third charge is an imputed omission in acknowledging the loyal addresses presented to you by the inhabitants of the province. The facts are these. Seventy addresses of this kind were transmitted by you, and reached this office in the months of June and July, 1836. The receipt of them all, with the exception of the nine last, was acknowledged in the same months, and the first was noticed in terms of great cordiality; but the subsequent addresses drew from me no remark or statement beyond the simple acknowledgment that they had reached my hands. It is, therefore, not to the absence of an answer, but to the coldness and dryness of the style, that your complaint must be supposed to refer. Now it is a general rule, of which the motives scarcely need explanation, that congratulatory addresses made, not to the sovereign, but to the governor of the colony, are acknowledged to the parties by the governor only, and not by the secretary of state. In the case of the first address which you transmitted, my anxiety to support you induced me to break through this formal regulation; but as the addresses multiplied the necessity of adhering to the rule became evident; many of the addresses were conceived in terms suggested rather by the feelings of the passing day than by views to which it was possible to pronounce an unqualified assent. Your answers were occasionally drawn up in language, for which much allowance was to be made in consideration of the excitement of the occasion; but which, writing in the name of the King, I could not very properly mark with approbation. The only course left was that of silence; a course the less liable to

objection, as it was consonant with the general rule to which reference has already been made.

4. The fourth alleged neglect is the omission to notice the speech with which you closed the session. That speech reached me on the 7th of June, and on the 14th of the same month I acknowledged the receipt of the despatch in which it was inclosed. It is the established practice to make nothing more than a formal acknowledgment of addresses passing between a governor and the legislative bodies. This, however, it may be said was a peculiar occasion, in which ordinary rules of that kind should have been disregarded. This is readily allowed; but the fact is, that the speech in question was one in reference to which there were ample reasons for declining to make any particular comment. Unwilling to provoke dissatisfaction by qualified praise, and unable to bestow unmixed commendation, I combined my acknowledgment of the speech with a reference to your proceedings in general, and thus bestowed on your measures the approbation which I could not honestly give to your speech; declaring those measures to have been "characterized by a zeal for the general good of the province, and by an energy, firmness, and promptitude of decision which entitled you to the cordial sympathy and grateful acknowledgments of the ministers of the crown."

5. Another complaint is, that when my ample acknowledgments of the measures taken in the spring of 1836 arrived, "other minute points were visited with observations which you never expected to receive." That the topics to which you here advert were minute (that is, of little importance), might be disproved by the enumeration of them. That the observations of which you complain were expressed in terms the most courteous, mild, and respectful, cannot be denied, and is not denied even by yourself. That the occasion justified and even required those observations might be readily demonstrated.

But, without engaging in needless details, I cannot omit to point out the result to which the principle involved in this complaint would conduct us.

The doctrine which you have so strenuously maintained, that the local government is responsible, not to the local legislature, but to the King, is just and constitutional, but it has invariably been connected with the corresponding doctrine, that the responsibility to the King must really exist and be in force.

Upon this you insisted in your addresses to the assembly. This also was the language of the original instructions which you communicated to that body, and to which you ascribe your success. But the professions thus conveyed to the legislature would be a mere illusion and deceit, if the King's ministers were not at liberty to avow any difference of opinion between themselves and the officer administering the government, although the avowal might be couched in terms the most courteous and respectful, and although it might be unmixed with censure, and connected with cordial eulogy and honourable reward. If even such an exercise of the controlling power is to be resented as an injury, and denounced as a support to republican principles, the acknowledgment is inevitable, that the governors of our provinces, so long as they continue to govern, must exercise a supreme and irresponsible authority, a principle which, whether avowed in terms or tacitly asserted by conduct, is wholly at variance with that which Her Majesty's government have hitherto maintained, and to which they are determined to adhere.

6. The next subject of your complaint is, that Mr. Sullivan's appointment as commissioner of crown lands was first impeded by what you have termed a technical objection, and that it has not even yet been confirmed. The accuracy of this representation may be most fitly brought to the test by a simple statement of the real facts of the case. They are as follow:—

Mr. Sullivan's appointment to the office of commissioner of crown lands was communicated to me in a despatch which reached me on the 1st September, 1836. At that time plans were in agitation for remodelling the crown land departments in all the British North American provinces. You had announced your intention to make an early report on the land-granting system in Upper Canada. At such a moment it would have been highly improper to confirm absolutely and without qualification Mr. Sullivan's appointment, or, indeed, any other appointment in that department, because such a confirmation would have created a vested interest inconsistent with the meditated improvements. Meantime Mr. Sullivan was in possession of the office. The circumstances which delayed the proposed alterations in the crown land department in Lower Canada need not be stated here.



Even in New Brunswick it is only within the last autumn that they have been completed.

But on the 28th of January, 1837, unwilling to incur any further postponement, I transmitted to you an explanation of the past delay, and confirmed Mr. Sullivan's appointment; reserving, however, to the crown the right to make any alteration which might subsequently be found necessary, either in the duties or in the emoluments of the office, without any right to compensation on the part of Mr. Sullivan.

In the interval, that gentleman was not to receive the usual appointment under the sign manual, but was to act under your nomination; the single object of this arrangement being to avoid a measure which might render more difficult any future regulation of the office. Finding, however, that you considered the absence of this usual form of appointment injurious to Mr. Sullivan and embarrassing to yourself, I transmitted the royal warrant in my despatch of the 31st of July, 1837, accompanied by an express stipulation against its being regarded as a final act. Such is the present state of this matter.

7. You complain of my not having at once advised the confirmation by the crown of the appointments of Messrs. Hagerman and Draper to the offices of attorney and solicitor-general, without a reference back of the subject to you. I beg to remind you of the real state of this case.

In the month of April you appointed, under sanction of an act of the local legislature, three new judges, one of whom was Mr. Jameson, the then attorney-general. To the office of attorney-general, thus vacated, you appointed Mr. Hagerman, the solicitor-general; and this last office you conferred on Mr. Draper. All these five appointments were of course provisional, and awaited the confirmation or disallowance of the crown.

The information of these several appointments reached me during the illness of the late King, at a time when His Majesty could not with propriety be consulted on the subject. Shortly after the accession of the Queen, the three judicial appointments were confirmed by Her Majesty; but the following circumstances rendered some delay in deciding on the claims of Messrs. Hagerman and Draper unavoidable.

In the despatch delivered to you on your acceptance of the government, and by you communicated to the legislature, I had, in the clearest terms, declared that no high and confidential

servant of the crown, who, as a member of the legislature, should oppose the policy of the government, would be permitted to retain his office.

A member of the general assembly of the church of Scotland had transmitted, for my information, certain printed resolutions of the presbytery of that church in Upper Canada, which resolutions represented that in the session of 1836, Mr. Hagerman had, in his place in the house of assembly of Upper Canada, held language and pursued a line of conduct highly injurious to the character and interests of the Scotch church, and in direct opposition to the avowed policy and recorded opinions of the ministers of the crown. In fulfilment of the pledge communicated by you to the assembly, I directed you to call on Mr. Hagerman for explanations. These explanations, which have been given by that gentleman, promptly and frankly, were transmitted in your despatches, Nos. 100 and 101, of 11th and 15th September, and have proved, I am happy to add, quite satisfactory. Mr. Hagerman has distinctly disclaimed the sentiments and language imputed to him, and it is clearly established that the presbytery acted on erroneous information; Mr. Hagerman's appointment as attorney-general has therefore been confirmed. Respecting Mr. Draper there never was any doubt, excepting whether he should be attorney or solicitor-general; that doubt being now resolved, he has been confirmed in the latter office.

In the whole of this proceeding I have simply adhered to the pledges which, in obedience to my instructions, you gave at the commencement of your administration to both houses of the local legislature.

8. You represent that the statement which I laid before the law officers of the crown respecting the fifty-seven rectories established by your immediate predecessor in the government of Upper Canada, omitted a most material fact, and that this error may throw the whole province into confusion. This representation renders it necessary for me briefly to advert to the particulars of this case.

Immediately before the close of his administration, Sir J. Colborne, by an order made by the advice of the executive council, established and endowed fifty-seven rectories. Complaints of this proceeding were preferred in the house of commons. They were answered by the statement that his Majesty's government

had neither authorized nor even heard of the measure. When required to supply the necessary information and explanation on this subject, you transmitted the order of the lieutenant-governor in council, by which the rectories had been established, and you expressed your regret at this act of your predecessor, declaring that it had constituted one of your most serious embarrassments in the administration of your government.

On the receipt of your despatch it occurred to me, as a question of very grave doubt, whether the act was valid or legal. To adjust that preliminary question, I consulted the law-officers of the crown, and communicated to them the order of the late lieutenant-governor in council establishing the rectories, with every other document which you had transmitted to me as bearing on the subject. The king's advocate and the attorney and solicitor-general made a report against the validity of the endowments, and that report was transmitted to you, with an instruction to communicate it to the bishop and the archdeacon, and to request them to state whether any material facts had been omitted or inaccurately represented in the case laid before the law-officers of the crown, and whether the law-officers appeared to have overlooked any view or bearing of the question to which their attention ought to have been directed. To this instruction I have not yet received the reply, which of course will in due time arrive, and until I receive it, I must reserve my final opinion on the case. You maintain, however, that if certain instructions conveyed by Lord Bathurst to two preceding governors, in the reigns of their late majesties King George the third, and King George the fourth, had been laid before the law officers of the crown, their decision must have been entirely different. Without prejudging a subject, which must hereafter be referred to those learned persons, I will merely state that the materiality of the omission of those instructions to the question at issue, seems to me very doubtful. But if the statement laid before the law-officers of the crown was essentially defective, the responsibility does not rest with me. The order of Sir J. Colborne in council proceeded avowedly on Lord Ripon's instructions, and on them alone, and neither in the order itself, nor in your despatch transmitting it, was the slightest allusion made to any other foundation of the measure. I therefore had no ground to conjecture that the creation and endowment of the rectories rested on a different basis. Called upon to supply all the necessary information on the subject, you omitted that, which, as it



now appears, you regard as the fundamental fact in the whole case. This omission not only left me in ignorance that the order of the lieutenant-governor in council, rested on the authority of Lord Bathurst's instructions, but necessarily led me to conclude that the authors of the measure rested its defence entirely on the instructions of the Earl of Ripon. That this is not the fact I had never heard nor surmised until your despatch of the 10th of September reached me.

9. You remonstrate against the remarks which I made, in my despatch of the 6th of June, 1837, respecting Mr. Draper's mission to this country. I think it necessary therefore to remind you of the real state of this case.

Mr. Dunn, the receiver-general of Upper Canada, obtained, in the year 1835, under the authority of an act of the local legislature, and on the credit of the revenues of the province, large loans from the house of Wilson and Co. of London. These contracts were made by Mr. Dunn in person, without even the knowledge of His Majesty's government. There was no record in this country of the nature and terms of them; the whole rested in the personal knowledge of Mr. Dunn.

The insolvency of the American houses justly alarmed you as to the possibility of obtaining payment of the sums due in London to the provincial treasury, and in order to explain that and some other financial questions you directed Mr. Draper to repair to England. Mr. Draper brought with him no official and but little personal knowledge on the subject; and in my despatch of the 6th of June I expressed "my regret that any other person than Mr. Dunn should have been selected as the messenger of the provincial government on this occasion. Whatever" (I observed) "may have been Mr. Dunn's political conduct, yet, so long as he retains the office of receiver-general, he should be permitted to discharge the duties and to sustain the responsibility connected with it. In the present case, this is peculiarly important, because the loans with the commercial houses were negotiated by him, and no other person can, with any plausibility, lay claim to a knowledge equally intimate of the real state of those transactions."

Such is the censure of which you complain. It remains to state the sequel of the transaction. Mr. Dunn ultimately came to England, though at his own expense, to prosecute claims of the province. The whole account was adjusted by him in London. He transferred to a banking-house in the city, the

management of the affairs formerly conducted by Messrs. Wilson and Co., and, having wound up the whole business, returned to Upper Canada. Thus, while Mr. Draper, who had it in his power to render but very slight assistance, came to England at the public expense, and as the agent of the local government, Mr. Dunn, in whose department the question lay, and by whom the whole business was transacted, had to bear his own charges, and accomplished a result most important to the province.

10. Another specific complaint urged in your despatch is, that I employed, not Mr. Draper, but another gentleman, as the bearer of my despatches to you, respecting the financial affairs of the province. Even this complaint, slight as it may appear, must not pass unnoticed.

I fully intended to make Mr. Draper the bearer of the despatches in question. With that view he was requested to attend at this office. He promised to do so; but from causes unexplained and unknown to me, Mr. Draper left England without presenting himself at this office, and the employment of another messenger was therefore a matter of inevitable necessity. These facts were communicated to you on the 4th of August. When you wrote your despatch of the 10th of September you had probably not received that communication.

In the preceding observations I beg to state that I mean to make no complaint of Mr. Draper, nor to imply the slightest reflection upon him of any kind. My opinion of that gentleman has been sufficiently attested by the confirmation, since that time, of his appointment as solicitor-general of the province.

The next topics to which I have to advert, demand the more particular notice, as they appear to be regarded by you as the more immediate and prominent grounds of your resignation.

11. You remonstrate against my instruction on the subject of Mr. Bidwell's eventual promotion to the bench, in case of a future vacancy, and you declare your determination never to carry that instruction into effect. Your opposition is vindicated by the objections which you make to the political career of Mr. Bidwell, and which you insist ought to have forbidden the adoption by Her Majesty's government of any resolution favourable to that gentleman's employment in the service of the crown.

My estimate of Mr. Bidwell's character and claims to advancement to the bench had been derived chiefly from your

own despatches. It was on no lower authority that I adopted the opinion that he was properly eligible for that distinction. You now inform me that you had drawn his character with a light and feeling hand. You had, however, acknowledged Mr. Bidwell to be a gentleman of great abilities, of the first eminence in his profession, and of irreproachable private character. I knew, indeed, that he had formerly taken a very prominent part in opposition to your own measures, and those of your immediate predecessor. You had stated that his object, "so far as it could be elicited by the conduct of his associates," was to separate Upper Canada from the parent state; and you had claimed my assent, in reference to this gentleman, to the proposition, "that where a man acts with disloyal associates, his talents aggravate rather than extenuate his offence." I had further been apprised that Mr. Bidwell had entirely retired from political life, confining himself to the duties of his profession, and had ceased to act with the party of which he had formerly been a member. Such was my information when I instructed you eventually to offer to Mr. Bidwell a seat on the bench. I confess that it did not appear to me fit that under such circumstances he should be punished by a permanent and irreparable incapacity for a promotion to which, on the grounds of private character, no objections could be raised; and to which, on the grounds of professional eminence, he had the highest possible title. It appeared to me dangerous, or rather impracticable, to govern the province on the principle of a proscription of the whole of one large body of the inhabitants. You now, indeed, make the additional statement, that Mr. Bidwell was a member of a revolutionary society, called "The Provincial Convention." Of this fact I was totally ignorant until the receipt of the very despatch now under consideration. By a despatch from you of a still later date, namely, the 22nd of September, it appears that a letter, bearing the date of the 3rd of August, and the signature of Mr. Bidwell, was published at Toronto, on the 20th of September, in which Mr. Bidwell expressly declines to be a member of that society, and complains of the unauthorized use of his name for that purpose. In reporting this fact you assume that the date which the letter bears was purposely falsified; that Mr. Bidwell had heard of the intentions in his favour, and had published his letter with a false date, in order to remove an objection which might have obstructed his advancement. On



what authority this accusation is made you have not explained; and without some such explanation I could not impute, what would be in effect, a wilful violation of truth to a gentleman whose moral character is unimpeached by his most decided political antagonists. If, however, the only practical ground of difference between you and me had been the promotion of Mr. Bidwell, I should have been anxious, for the present at least, to defer to the strong opinion which you have expressed against my recommendation. Mr. Bidwell had certainly no claim of strict right to the promotion in question. Every selection of that kind is an act of discretionary authority, in which the government is not only at liberty, but is bound to weigh all conflicting, prudential considerations, on either side; and whatever may have been my views respecting Mr. Bidwell's appointment, I do not scruple to admit, that if I had been to make my choice between the execution of that purpose and your continuance in office, I should not have hesitated to prefer the latter alternative.

12. But Mr. Ridout's case is of a different complexion; and with respect to it I am compelled to acknowledge my irreconcilable dissent from your judgment and conclusions.

In the despatch to which I am now replying, the particulars of this case are recapitulated but briefly, and therefore with that kind of inaccuracy which is inseparable from the abridgment of any considerable extent of detail. On the other hand, in the correspondence which has taken place on this subject, and which is comprised in the despatches referred to in the margin, will be found a full and careful investigation and statement of every material circumstance. To that correspondence I refer with confidence, as proving that the course which I pursued was imperatively forced upon me by the duties of my office, and by the obligations of justice to Mr. Ridout, and of good faith to the province at large.

I think it necessary, however, to preface the remarks I have to make on this subject by a short summary of the facts, as they are to be collected from the papers before me.

You dismissed Mr. Ridout from the offices of colonel of the militia, judge of the district court of Niagara, and justice of the peace, and caused a letter to be addressed to him, in which that measure was stated to have been taken, on the ground that it appeared that he was an active member of a society which had

circulated an address insulting to your person and office. Mr. Ridout distinctly denied that he was a member of that society; that he had had anything to do with drawing up the address in question, or that he had even seen it until it was in circulation, in print, through the city of Toronto. He transmitted to you evidence on oath in corroboration of his statement. As you took no notice of his complaint, he placed in your hands an appeal to myself, having first requested, in terms to which no possible objection could be made, that if there were any other reasons for his dismissal than that which you had assigned to him he might be informed of them. You did not comply with this request; but, in transmitting to me his appeal, you imputed to Mr. Ridout various acts of misconduct, to which no allusion had been made in your correspondence with him. I answered you by stating, in effect, that in deciding on Mr. Ridout's appeal it was impossible for me to advert to any other grounds of accusation, than that which had been made known to Mr. Ridout as the cause of his dismissal.

I explained the reasons which led me to regard as satisfactory Mr. Ridout's defence against the charge of which alone he had been informed; and I signified to you His late Majesty's commands, that Mr. Ridout should be permitted to resume the various employments from which he had been removed. Against this decision you remonstrated in your despatch of the 6th February. You then, for the first time, informed me that you had acted on this subject with the advice of the executive council. In my reply of the 5th April, after stating my dissent from some of the principles which you had maintained with reference to this case, I further addressed you in the following terms:—"From your despatch of the 6th of February, I now, however, for the first time, learn that Mr. Ridout's removal from office was recommended by the executive council; and I further learn, that they adhere to their original opinion. On this subject I have to state, that I have never expressed, nor do I now entertain, any judgment opposed to theirs; on the contrary, I entirely agree with them, that the various acts of misconduct ascribed to Mr. Ridout in your despatch of the 12th September, and still more fully stated in your despatch of the 6th of February, are such as would, if substantiated on proper inquiry, justify the very severe penalty inflicted on him.

"If I am to understand the council as thinking that such an

inquiry was needless, I must, with whatever reluctance, differ from them. The grounds of that difference, I have already, in part, explained. But I must add, that if there be any one class of public officers in whose case it is especially incumbent on the executive government to proceed with caution, circumspection, and with a strict observance of all the essential forms of proceeding on such occasions, it is the class of those who are intrusted with the administration of justice.

“ In avowing my opinion, that the matters laid to the charge of Mr. Ridout would, if established, justify his dismissal, I wish to be understood as not referring to the intemperate terms in which he addressed you after his removal from office. Much allowance is to be made for natural feelings under a sense of supposed injury. It is to the other allegations that my remark applies.

“ It is, I can assure you, painful to me to take any course of conduct which may aggravate the difficulties of your situation, yet I feel myself bound by the paramount obligations of justice still to withhold my approbation of the measures adopted in Mr. Ridout's case. On the other hand, his restitution to office may, I think, be properly made to depend upon his ability to exculpate himself from the various charges preferred against him in your despatches of the 12th of September and the 6th of February. To this extent, the instructions conveyed to you in my despatch of the 29th of November, are withdrawn and qualified. Further than this it is impossible for me to advance. You will, therefore, in whatever mode you shall think best, put Mr. Ridout in possession of those accusations, and after weighing his answer, and the evidence by which it may be supported, you will communicate to me the result.”

I have entered on the preceding statement as necessary to explain and justify the very material fact which I am desirous to record. That fact is, that the instructions, which you now refuse to obey, do not direct Mr. Ridout's reinstatement. In the exercise of the authority with which I was invested, I directed you to place a judge whom you had dismissed from office, in possession of the grounds of that very grave proceeding, before I could confirm his removal. I called upon you to render to him that measure of justice which the humblest member of society is entitled to demand, by making known to him what were the reasons on which the representative of his sovereign



had sentenced him to degradation and punishment. This is the instruction which you meet with a direct and positive refusal. Such is one of the most prominent grounds on which, at a moment of extreme embarrassment and difficulty, you have resigned the administration of the government of Upper Canada.

Your deliberate refusal to obey my instructions of the 5th of April, is communicated to me, for the first time, in a despatch dated on the 10th of September. It is to be collected from other communications of yours, which are recorded in this office, that my despatch of the 5th April had reached your hands on the 26th of June; that is, between two and three months before the date of the peremptory declaration, that on this point at least, you would not conform to the unequivocal instructions of your official superior. You must permit me to say, that your purpose ought to have been much sooner announced. I cannot acknowledge the justice or propriety of leaving me so long in ignorance of such a decision, and of the resignation which you represent, as immediately and unavoidably connected with it.

I have thus noticed, separately and distinctly, the various accusations of which, in your despatch of the 10th of September, you have made me the object. I have not stopped to comment on particular expressions, or on the general tone and style of that communication. The respect with which Her Majesty's government have invariably acknowledged your public services, is too sincerely entertained to leave room for any other feeling, than that of regret, in contemplating the position which you have thought it proper to assume with relation to them. So long as I could rely on your assurance that your policy would be regulated by the instructions which you had received from me, I felt fully justified in continuing in your hands the administration of the province. You now, however, inform me that you have felt it your duty frankly to disclose to me opinions and sentiments, which, being hostile to the policy of the office over which I preside, ought not to be withheld from me. You have accompanied this disclosure with a positive refusal to carry my instructions into effect, in a case in which that refusal involves, not only disobedience to my directions, but actual injustice to an individual who has appealed to me for redress.

Under these circumstances Her Majesty's ministers have, after the fullest deliberation, thought it their duty to tender to the Queen their advice that your resignation should be accepted;

and I have received her Majesty's commands to signify to you her acceptance of it accordingly.

In conformity with your request, your successor will proceed to Upper Canada with the least possible delay. In the meantime I rely on your devoting the short period of your future administration of the affairs of Upper Canada, to the protection and advancement of those highly important interests which, during the last two years, have been intrusted to your guidance with so much advantage to the public service.

I have, &c.

(Signed) GLENELG.

*No. 52.—Lord Glenelg to Sir F. B. Head, Bart., K.C.H.*

SIR,

*Downing-street, 30th December, 1837.*

I HAVE the honour to acknowledge your despatch of the 18th November, No. 124, inclosing copies of a correspondence which had passed between yourself and Sir J. Colborne, relative to calling out the militia of Upper Canada to assist in suppressing the revolt in the lower province, and containing some suggestions as to the course which, at the date of your despatch, it would, in your opinion, have been most advisable for Her Majesty's government to pursue towards Lower Canada.

Although the events which have taken place since the date of your despatch, have rendered these suggestions inapplicable to the actual state of the province, I feel it due to you to offer my best thanks for the communication of them, and to express my concurrence in much of what you have stated with reference to this subject. I approve the answer which you returned to Sir J. Colborne on the subject of the Upper Canada militia, and I have no doubt of the prudence of the course which you have pursued, and the soundness of the discretion which you have exercised, in regard to the late proceedings in the vicinity of Montreal.

I have, &c.

(Signed) GLENELG.

*No. 53.—Lord Glenelg to Major-General Sir G. Arthur, K.C.H.*

SIR,

*Downing-street, 30th December, 1837.*

IT is necessary that on your arrival in Upper Canada, you should be prepared with definite instructions for your guidance, in reference to the case of Mr. George Ridout, to which the

correspondence enumerated in the margin, has given an accidental but grave importance.

If the state of the Canadian province at present, had been substantially the same as when Mr. Ridout's appeal against his removal from office was discussed, between Sir F. Head and myself, I should be prepared to abide, without any qualification, by the instructions which I addressed to your predecessor on the subject; but when I advert to the fact, that one of the districts of the lower province is the scene of an open insurrection, I at once acknowledge that the crisis may demand and justify the postponement of almost any private and individual claim, the discussion of which might endanger the public safety. I refer, therefore, implicitly to your own judgment, guided by the information which will reach you on your arrival in Upper Canada, the question whether any communication shall or shall not then take place with Mr. Ridout, on the subject of his unanswered appeal from your predecessor to His late Majesty; and I authorize you to decline for the present, any communication with him respecting it, if you shall find cause to conclude that the effect would be to give to a particular party a hazardous triumph, or to raise a popular misconception, dangerous to the public tranquillity; in that event, you will defer any notice of his case until the danger shall have passed away. But if, on the other hand, you should be satisfied that the revival of the discussion would be unattended with any such risk, you will inform Mr. Ridout that his appeal reached me, but that circumstances, into which you decline to enter, had unavoidably postponed until now, my answer to it. You will then transmit to him a statement of the grounds on which the executive council dissuaded his restoration to office, and will apprise him, that before I can express a final opinion, I shall be ready to receive and consider any answer, which he may think proper to make to the charges so preferred against him. I have, &c.

(Signed) GLENELG.

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*No. 54.—Lord Glenelg to Major-General Sir G. Arthur, K.C.H.*  
SIR, *Downing-street, 30th January, 1838.*

I HAVE received, and have laid before the Queen, Sir F. Head's despatch of the 19th December last, No. 132, reporting the recent events which up to that date had occurred in the province of Upper Canada. Her Majesty has learned, with the



deepest regret, that at a moment of profound tranquillity, and in the absence even of any plausible pretext for resistance to lawful authority, an attempt should have been made to effect an insurrectionary movement, and to attack the loyal and peaceable inhabitants of the city of Toronto.

Her Majesty, however, has observed with peculiar satisfaction, the zeal and enthusiasm with which the militia of the province came forward, unsupported by the presence of any of Her Majesty's regular troops, for the suppression of revolt, the protection of property, and the defeat of the interested designs of a few disaffected individuals.

Highly as Sir F. Head had estimated the attachment of the people of Upper Canada to Great Britain, it is evident that he had not overrated their sentiments in this respect, but that he was fully justified in placing the strongest reliance in their fidelity and loyalty.

The energy and decision evinced by Sir F. Head and the militia of Upper Canada, after the first appearance of open disturbance, have received the Queen's high commendation, and Her Majesty has been pleased especially to notice the gallantry and activity of Colonel Allan M'Nab, the speaker of the house of assembly. To that officer, and to the militia of Upper Canada generally, Her Majesty has commanded me to direct that you will communicate Her thanks for the zeal which they have displayed on this occasion.

The Queen has learned with deep concern the murder of Colonel Moodie, in his endeavour to apprise the executive government of the preparations which were in progress among the insurgents. I am commanded to convey, through you, to Colonel Moodie's family, the expression of Her Majesty's sympathy with their loss.

I trust that, with this exception, the loyal inhabitants of the province have sustained little, if any, loss in the course of the recent transactions. I shall, however, await with anxiety, though with a full confidence in the means which the province possessed within itself of resisting any sudden attack, the report of further proceedings to which reference is made in public papers, of a date subsequent to that of Sir F. Head's despatch. I have adverted to this subject in a despatch to Sir J. Colborne, with whom you will of course communicate without reserve, as

to the most effectual means of defeating any attempt at a hostile aggression on the territory of Upper Canada.

You are called on to enter on your government at a moment of such peculiar difficulty, that the state of excitement in which you will find the province can scarcely fail to interrupt the ordinary course of business during the present session of the provincial legislature ; I trust, however, that order and tranquillity will speedily have been restored, and that no material obstacle will have been created to the furtherance of those objects of public interest and advantage, which it will be your earnest endeavour, in concert with the two branches of the provincial legislature, to effect.

I have, &c.

(Signed) GLENELG.

*No. 55.—Lord Glenelg to Major-General Sir G. Arthur, K.C.H.*  
SIR,

*Downing-street, 16th March, 1838.*

I HAVE received Sir F. Head's despatch, No. 11, of the 26th January. As he no longer occupies any official station, I abstain from all comment on that despatch, except with reference to the only practical question which is involved in it. I allude to the case of Mr. Ridout, with respect to which, I think it my duty to acquaint you, that I see no reason to alter the opinion which I have before fully expressed, or to qualify the instructions which I have addressed to you, for your guidance.

I have, &c.

(Signed) GLENELG.

*No. 56.—Lord Glenelg to Major-General Sir G. Arthur, K.C.H.*  
SIR,

*Downing-street, 17th March, 1838.*

I HAVE received Sir F. Head's despatch, No. 12, of the 30th January, reporting the dispersion of the Americans who had taken part with the insurgents on the frontier of Upper Canada. Having already addressed to you such instructions as I thought necessary, as to the maintenance of the militia force in the province, I have only to express my concurrence in the propriety of the course which, under existing circumstances, was adopted by Sir F. Head, with reference to this subject, more especially as the most recent accounts indicate a state of considerable excitement upon the frontier, against which every proper precaution should undoubtedly be taken. I cannot,

however, omit to notice the terms in which Sir F. Head has expressed himself, with respect to the inhabitants of the United States, a country in amity with Great Britain, and the government of which has evinced the most friendly feelings towards this country during the recent disturbances. While the attempts of individual citizens of the United States, to aid the cause of insurrection and rebellion in Canada, cannot be too strongly reprobated, Her Majesty's government deprecate any countenance being given to a general feeling of hatred and detestation, among any portion of the subjects of the British crown towards America; and I cannot but regret that language should have been used by the lieutenant-governor of Upper Canada, opposed to that spirit of amity and goodwill, which it is the earnest desire of Her Majesty's government to maintain towards the government and people of the United States, no less than towards those of any other power maintaining friendly relations with this country.

I am confident, that while you will be prompt to vindicate the authority of the British crown, and to maintain the integrity of the province, you will not only abstain from any conduct or language calculated to inflame angry passions, or increase excitement, but will, by every means in your power, cherish and diffuse a better and more friendly feeling towards the neighbouring states.

I have, &c.

(Signed) GLENELG.

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*No. 57.—Lord Glenelg to Major-General Sir G. Arthur, K.C.H.*  
 SIR, *Downing-street, 20th April, 1838.*

I HAVE had the honour to receive Sir F. Head's despatch of the 14th of March, No. 33, reporting the defeat, by the forces under the command of Colonel John Maitland, of the insurgents who had taken possession of Point Pelé Island in Upper Canada.

I had previously received a report of this transaction from lieutenant-general Sir J. Colborne, and enjoyed the satisfaction of conveying, through him, to Her Majesty's troops and to the militia and volunteer corps engaged on that occasion, Her Majesty's high sense of their loyalty, zeal, and gallantry. I trust that Sir F. Head is correct in anticipating that, after the signal defeat that has attended the insurgents on this and on every occasion, when they have attempted to invade the British territory, no further attacks of a like nature will be made.



No. 58.—*Lord Glenely to Sir F. B. Head, Bart., K.C.H.*

SIR,

*Downing-street, 25th April, 1838.*

I HAVE had the honour to receive the despatch which you addressed to me on the 23rd January in the present year, on the subject of your pecuniary demands upon Her Majesty's government. I regret to be obliged again to touch on that subject; but I cannot, in justice to myself, avoid offering some observations in reference to the view which you take of it. You observe that I am aware that you "accepted the government of Upper Canada against your inclination and against your judgment." I must say that I cannot receive in silence such a representation, especially when made the basis of a pecuniary claim. I must beg to disavow any knowledge whatever of the fact, that in accepting your late office, you acted in opposition either to your inclination or to your judgment. When I offered you the government of Upper Canada, we met as strangers to each other. I had no sort of personal claim on you, and possessed neither the power nor the wish to bias your judgment or to control your inclination.

You quote from my despatch of the 2nd of March, No. 41, the following passage, which you characterize as a "distinct promise;" namely, that "if after a sufficient length of observation it shall be established to your satisfaction and my own, that your official income is inadequate to the demands to which your office reasonably subjects you, I shall think it my duty, not for your sake, but with a view to the permanent interest of the public at large, to stipulate for the necessary increase as a part of that civil list for which Her Majesty's hereditary revenue is to be surrendered." I readily acknowledge the pledge contained in these words, and from the fulfilment of it I have never shrunk, nor am I now disposed to evade it. On the contrary, assisted by all the information within my reach, I have endeavoured, on the nomination of your successor, to ascertain the amount of the demands to which the officer of lieutenant-governor of Upper Canada would reasonably subject the holder of it. My conclusion was, that an annual income of 3,500*l.* would be adequate to this purpose. I drew that conclusion partly from your representations, and partly from a comparison of your official income with that of the other lieutenant-governors of Her Majesty's provinces in North America. The result has been to induce me to think that your salary

was fixed at too low a rate by the annual sum of 500*l*. I therefore instructed Sir George Auther to stipulate with the house of assembly for an annual income for the lieutenant-governor of 3,500*l*. The demand thus made prospectively in his case, I have since instructed him to make retrospectively in yours. You will therefore receive, either from the grant of the assembly or from the revenues at the disposal of the crown, an additional salary at the rate of 500*l*. per annum, in respect of the period of your administration of the government.

You state that your aide-de-camp “drew your income, paid it away, and only came to you to supply out of your private funds the deficiency, and that you felt it was hopeless to be trying experiments against facts such as you had submitted to me, or to ruin yourself in contending against arithmetic.” From these expressions I collect that your annual expenditure was conducted by your aide-de-camp, and that it largely exceeded your annual official income. Sincerely as I regret this fact, I must remind you, that the pledge given in my despatch of the 2nd March, 1836, was not to indemnify you against the expenses which might be incurred in your household, but only to stipulate with the assembly for an official income adequate to the demands to which your office reasonably subjected you.

To the complaints which you prefer of my conduct towards you on this subject, it would not be difficult to find an answer in the language of several of your former communications, in which you abandoned in the most unequivocal terms, all claims for increase of salary, on condition of receiving the rank of a baronet, which was afterwards conferred upon you. But without dwelling at present, as I should be quite justified in doing, on expressions of that nature, however distinct, and however often repeated with apparent deliberation, my reply to the charge of having failed to fulfil my engagement, and of having allowed you “to sink day after day, and week after week, month after month, and year after year, deeper and deeper into debt,” is simply this:—you accepted the office of lieutenant-governor of Upper Canada with a distinct knowledge of the amount of the income belonging to it; when you found that this income would be inadequate, and reported the fact to me, I gave in my despatch of the 2nd of March, 1836, the pledge already quoted to stipulate with the assembly for such an increase as should be adequate to the demands to which your

office reasonably subjected you. That stipulation has not yet been made, only because circumstances entirely beyond my control postponed during the whole of your administration the settlement of the civil-list question. In order to relieve you from the difficulties attendant on the shortness of the time which elapsed between your appointment and your departure from England, you have already been apprised of the intention of the lords of the treasury, to apply to parliament to grant you the unusual allowance of £500, in addition to the sum of £300 which you received, according to the usual practice, to defray the expenses of your outward voyage, and you will receive £300 to defray the charges of your return home. The stamp duty on your commission, amounting to £200, has been remitted, and you have yet £1,000 to receive on account of the retrospective increase of your salary. Thus, in addition to £600 for passage money, you will, in respect of your two years' service, be in the receipt in the whole, of allowances exceeding by £1,700, the amount of the salary on which you accepted your office.

I have, &c.

(Signed) GLENELG.

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*No. 59.—Lord Glenelg to Major-General Sir G. Arthur, K.C.H.*  
 SIR, *Downing-street, 25th April, 1838.*

ON the 23rd of last January, Sir F. Head addressed to me a despatch, recapitulating the former correspondence which had passed between us on the subject of his emoluments, and demanding from Her Majesty's government repayment of certain expenses therein stated, amounting in all to £2,950. As this question is of a personal nature, my answer has been, of course, addressed to Sir F. Head himself; but as the subject is one, not unconnected with a due administration of the government of Upper Canada, and as it occupies a prominent place among the points brought into discussion, during the last two years, between Sir F. Head and myself, I think it right to transmit to you herewith, a copy of my letter to him, in order that it may be placed among the records of Upper Canada.

In conformity with the intention, which I have intimated to Sir F. Head, I have to desire, that in bringing under the notice of the house of assembly of Upper Canada, at their next meeting, the propositions which you have been authorized to make for the surrender to them of the casual and territorial revenue,



you will stipulate that whatever emoluments may be prospectively attached to the office of lieutenant-governor, beyond the sum enjoyed by Sir F. Head, should be granted retrospectively to him, for the two years, during which he executed the duties of that office. I cannot doubt that both branches of the local legislature will concur in the justice of this course, and will willingly agree to a measure, having for its object to indemnify an officer whose services they have acknowledged in such honourable terms. If, however, the legislature of Upper Canada should not agree to this proposal, or acquiescing in the propriety of an increase of the lieutenant-governor's salary, should yet fix that increase below the sum specified in my despatch to you of the 28th December last, I have to desire that you will remit to Sir F. Head, out of the casual and territorial revenue of Upper Canada, the amount necessary to make up the allowance of £1,000 promised to him in the inclosed letter, in addition to the salary attached to the office of lieutenant-governor at the time when he accepted it.

I have, &c.

(Signed) GLENELG.

No. 60.—*Lord Glenelg to Major-General Sir G. Arthur, K.C.H.*  
SIR, 29th July, 1838.

HAVING communicated to Sir F. B. Head, a copy of the despatch, which I addressed to you on the 25th April last, directing the payment to him of an extra allowance of £500 for each of the years, during which he administered the government of Upper Canada, he has observed to me, that the terms of that despatch are, in his opinion, calculated to convey an impression that the question of the amount of his emoluments formed a prominent feature in those discussions which ultimately led to the resignation of his office. I think it due to Sir F. B. Head to state, that I did not intend to convey the impression that the question of his emoluments, though the frequent subject of discussion, constituted the ultimate ground of his resignation. Of this, indeed, you are already fully aware.

I have, &c.

(Signed) GLENELG.

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